S. HRG. 101-1114

MANUFACTURED HOUSING PROVISIONS OF H.R. 5157

HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING AND URBAN AFFAIRS

OF THE

COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

CONSIDERATION OF THE HOUSING BILL IN THE HOUSE, AMENDMENTS WERE ADOPTED IN SUBCOMMITTEE WHICH MADE SIGNIFICANT CHANGES TO THE NATIONAL MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS ACT OF 1974

JULY 26, 1990

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CONTENTS

THURSDAY, JULY 26, 1990

Opening statements of: Page
- Senator Bryan 1
- Senator Cranston 2
- Senator D'Amato 5
- Senator Riegle 7

WITNESSES

Don A. Reville, director, Arizona Department of Buildings and Fire Safety, Phoenix, AZ 8
- Prepared statement 13

Leonard Wehrman, vice president for Government and Industry Relations, National Foundation of Manufactured Home Owners, Daly City, CA 88
- Prepared statement 92

Frank Freeland, associate State coordinator for northern California, AARP Vote Program, Aptos, CA 98
- Prepared statement 100

Mary Beth Bowman, director, Arkansas Manufactured Home Commission, Little Rock, AR 110
- Additional material supplied for the record 115

Michelle Meier, counsel for Government Affairs, Consumers Union, Washington, DC 217
- Prepared statement 221

John Hiler, Representative in Congress of the United States from the Third District of Indiana 244
- Prepared statement 248

Jerry C. Connors, president, National Manufactured Housing Institute, Arlington, VA 264
- Prepared statement 269

Gub Mix, executive director, Nevada Manufactured Housing Association, Las Vegas, NV 279
- Prepared statement 282

Edward J. Hussey, Jr., chairman, governmental relations committee, Association for Regulatory Reform, Washington, DC, and Jim Shae, Jr., executive committee chairman, Fairmont Homes, Inc. 288
- Prepared statement 292

ADDITIONAL MATERIAL SUPPLIED FOR THE RECORD

National Conference of States on Building Codes and Standards, Inc. 345

National Rural Electric Cooperative Association 449

National Association of Home Builders 453

Mobilehome Owners League of the Silver State, Inc. 457

Federation of Mobile Home Owners of Florida, Inc. 458

National Manufactured Housing Federation, Inc. 459

Plumbers Local 75 474

United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL–CIO, CLC 481

MANUFACTURED HOUSING PROVISIONS OF H.R. 5157

THURSDAY, JULY 26, 1990

U.S. Senate,
Committee on Banking, Housing, and Urban Affairs,
Subcommittee on Housing and Urban Affairs,
Washington, DC.

The subcommittee met at 10:05 a.m., in room SD–538 of the Dirksen Senate Office Building, Senator Richard H. Bryan presiding.

Present: Senators Bryan, Cranston, and D'Amato.

OPENING STATEMENT OF SENATOR BRYAN

Senator Bryan. I am pleased to welcome you here this morning to the hearing on the Manufactured Housing Amendments to H.R. 5157, the "Housing and Community Development Act of 1990," which is currently awaiting action in the House of Representatives.

During consideration of the housing bill in the House, amendments were adopted in subcommittee which made significant changes in the National Manufactured Housing Construction and Safety Standards Act of 1974. The Senate, however, did not consider any alteration of existing law and we will have to address this issue in Conference on the housing bill with the House of Representatives.

The purpose of the hearing this morning is to hear testimony from all interested parties about the effects of these housing amendments and what the effects will be on the consumer and on the industry alike.

The National Manufactured Housing Construction and Safety Standards Act of 1974 set for several Federal standards to reduce the numbers of personal injuries and deaths. It was designed to reduce the amount of insurance cost and property damages resulting from manufactured home accidents. The law was written to improve the quality and durability of manufactured homes.

Since the 1974 law preempts State and local laws governing manufactured homes, it is the exclusive jurisdiction which should make Congress very cautious when reviewing and revising these standards. These Federal standards are the sole consumer safety and protection standards in manufactured housing. We do not want to do anything to jeopardize the purchasers of these homes.

To briefly summarize, the Federal standards cover the entire design and manufacturing process for these homes. The standards also require a manufacturer to notify a purchaser of any defect in the home, to correct the defect under certain circumstances, and to provide for HUD research and testing.

The House amendments appear to limit the protections afforded to consumers under current law by making major changes in the definition of a "defect," and the notification and correction of defects, inspections, and research and testing. The House amendments also remove the permanent chassis from the definition of the "manufactured home." This change blurs the distinction between manufactured housing and modular housing in definition.

However, the regulation covering these types of homes differs greatly. Modular housing is regulated by State and local building codes. Manufactured housing is regulated by a HUD code which, largely as a consequence, preempts State and local enforcement.

The House amendments also include a requirement for a 2-year warranty which is not now provided under current law. We believe that this is clearly a step in the right direction. However, the Secretary is prohibited from defining the terms of that warranty.

More than 3 million manufactured homes have been produced under the HUD code. It is obvious that this type of housing is serving a significant housing need. In my own State of Nevada there are more than 448 mobile home parks. More than 26,000 mobile homes exist in Nevada housing more than 30,000 individuals. As AARP testified on the House side, older households account for 22 percent of all households residing in mobile homes. Older mobile home residents tend to have modest incomes. Almost half have annual incomes below $10,000, and 81 percent have annual incomes below $20,000.

I believe it is important for the Senate to examine these changes to the National Manufactured Housing Construction and Safety Code and act with great care. I am anxious today to hear from a number of witnesses representing consumer groups, and State regulating authorities, as well as those who represent the manufacturing industry.

It is now my great privilege to yield to the chairman of the subcommittee who has played a major role in processing housing legislation on the Senate side, the distinguished Senator from California, Senator Alan Cranston.

OPENING STATEMENT OF SENATOR CRANSTON

Senator **Cranston**. Thank you very much, Senator Bryan. I want to thank you for calling this hearing to consider the Manufactured Housing provision included in the housing bill reported by the House Banking Committee.

Senator Bryan and I have previously discussed this issue during Senate Floor debate on the housing bill. I intend to continue working with Senator Bryan on this issue as the housing bill gets to Conference.

I want to welcome all of you to this hearing this morning, along with the Senator who has already welcomed you.

Manufactured housing has a very important contribution to make to affordable housing in this country. Manufactured housing provides an affordable housing alternative for nearly 6 million families. The low purchase price of a new manufactured home, an average of $22,400 in 1986, presents a golden opportunity for homeownership for many low- and moderate-income Americans, and indeed manufactured housing accounts for the majority of homes sold for less than $50,000.

As home prices have increased, homeownership rates have been on the decline over the past decade for the first time since World War II. More and more first-time home buyers have seen their dreams of homeownership slip out of reach. I believe it is in the national interest to foster a strong, stable, and reliable manufactured housing industry to assure an abundant supply of affordable homes. I intend to support Federal legislation that supports that objective.

Federal policy should help make manufactured housing as affordable as possible for home buyers. But in the case of manufactured homes perhaps even more than in the case of other consumer products, an affordable home must be a durable product and a product that remains safe for a very long period of time. For a consumer, the real affordability of a home involves not only the home's initial purchase price but also the costs of maintaining that home as a decent place to live. Affordability involves the cost of heating, electricity, and other utilities. Affordability involves the cost of financing the structure, lot rental, and other required monthly payments; and affordability involves the costs of repair and maintenance over the life of the structure, and it should be a long life.

In 1974, the Federal Government took over from States and local governments the primary responsibility for regulation of manufactured homes. I believe that was an appropriate step to help foster the development of a more efficient manufactured housing industry, but it is now the responsibility of Congress to make sure that this responsibility is carried out with diligence and with care. The challenge for Congress is to balance the need for an abundant supply of affordable housing with the obligation to ensure that government-approved manufactured homes provides consumers with long-term durability and affordability.

For the past 3 years the Senate Housing Subcommittee has worked to develop the National Affordable Housing Act which I believe will be landmark legislation to make decent housing more affordable for Americans in the years to come. The Senate bill does not include substantial changes in federal law affecting manufactured housing.

The committee was aware that wide-ranging discussions were underway among the Department of Housing and Urban Development, the industry State and local regulatory agencies, consumer groups, and others. The committee believes that changes in law should come at the conclusion of these negotiations. Unfortunately, those negotiations were cut off.

The House housing bill, however, does include some major amendments offered in committee by Congressman Hiler. So the issue will be considered in the next few weeks. Today's hearing, therefore, takes on, very, very great importance. That is why I am particularly grateful to Senator Bryan for instigating and executing this hearing with the help of those of you who are here.

A number of questions about the House-reported provisions need to be raised and answered in very short order. Conferees will have to consider the relationship of long-term affordability of manufactured homes to the short- term affordability. Conferees must consider what the Federal Government must do to ensure that the regulatory system results in a product that is durable, safe, and affordable.

We must also ensure that the housing is measured on standards that are reasonable, current, adequate, and properly enforced. It is vital that the provisions we are discussing today and in the days to come receive adequate public debate before being enacted into law. The issues have not yet received the public airing that they deserve. We need help in making sure that we make whatever changes are needed.

I hope that in the short time we have remaining in this Congress, a consensus can be reached on the merits of any proposed change in current law. Today's hearing will help us explore what kind of agreement does exist and should exist. I look forward to the ensuing discussion and hope that we can progress in finding this balance, as we must.

I would once again thank you, Dick, for your initiative on this very important issue. I would also like to extend a special welcome this morning to Len Wehrman and to Frank Freeland, both of whom have traveled here from my home State of California. I particularly welcome both of you.

Thank you, Dick.

Senator BRYAN. Thank you very much, Senator Cranston, for those very constructive comments and for making it possible for this hearing to be convened. Attesting to the importance and significance which this committee attaches to this aspect of housing legislation is the presence this morning of the principal co-sponsor of the housing bill, the distinguished Senator from New York, Senator D'Amato. I will now yield to him.

Senator D'AMATO. Well, Mr. Chairman, I do not intend to take any time other than to say that we are deeply indebted to you for your insistence in moving ahead in this area and calling these hearings so that we can get a record that will adequately reflect the legitimate concerns that many consumers have brought forward as a result of the legislation that passed in the House, and we will probably be going to Conference with them at some point.

So your testimony and your expertise, Senator, are going to be something that your colleagues will be looking towards. We will be looking toward your leadership in this area, and I want to commend you for calling these hearings and building this record so that we can act with a background of information that comes from these hearings.

I am going to ask that my statement be placed in the record as if read in its entirety.

Senator BRYAN. That will be the order, and I thank you very much, Senator D'Amato, for those comments. Senator Riegle has offered a statement that will be inserted in the record.

STATEMENT OF SENATOR D'AMATO

Senator D'AMATO. Mr. Chairman, I am pleased to join you here today to address safety and construction issues relating to manufactured housing. Over 200,000 families a year become homeowners of manufactured housing. Many families in New York State have found manufactured housing to be the most affordable option for homeownership. I am pleased to join my friend and colleague, Senator Bryan, to assess changes affecting these homebuyers and the industry.

BACKGROUND

During floor consideration of S. 566, the National Affordable Housing Act, Senator Bryan moved to offer an amendment relating to the regulation of manufactured housing. Senator Bryan withdrew his amendment in exchange for holding a hearing on the topic. I commend the Senator from Nevada for bringing this issue to the attention of the Senate.

As you know, the Senate housing bill does not address directly manufactured housing. The Senate will address manufactured housing in the conference of the Housing bill. This hearing is excellent preparation for addressing this issue in conference.

CURRENT STATUS OF HUD CODE FOR MANUFACTURED HOUSING

There seems to be consensus that the National Manufactured Housing Construction and Safety Standards Act of 1974, the HUD code for manufactured housing, should be revised. This code was established in 1974 to overcome interstate shipping problems. Because manufactured housing is often built in one state and shipped to another, a manufacturer had to comply with multiple local building codes. A national code appeared to be a more uniformed way of regulating the industry.

Because manufactured housing was considered to be like mobile transportation, i.e. a "mobile home," the 1974 Act was modelled after the National Traffic and Motor Vehicle Safety Act of 1966. Recently, however, it has been agreed that a law tailored for automobiles no longer makes sense for what manufactured housing is today.

THE HOUSE HOUSING BILL: THE HILER AMENDMENTS

In the subcommittee markup of H.R. 1180, Congressman Hiler [R-Ind.] offered a series of amendments entitled the Manufactured Home Standards Modernization Amendments. These amendments revise the HUD safety and construction code for manufactured housing. The amendments were supported by the manufactured housing industry.

The Hiler amendments passed in subcommittee by a vote of 24 to 20. All 18 Republicans and 6 Democrats on the subcommittee voted for the proposals.

While I have only begun to look at the Hiler amendments, it appears that there are three issues raised by the amendments which require attention. It is my hope that this hearing will be a useful opportunity to assess and, eventually, resolve, these issues. These issues are:

(1) Notification and Correction of Defects:

Under current law, a manufacturer is responsible for notifying and fixing any (1) serious defect or (2) a defect which creates an imminent safety hazard. A manufacturer is not required to notify or fix other defects unless HUD mandates notification.

There is some disagreement about what the Hiler amendments actually do in the area of notification and fixing of defects. It appears, though, that by taking away HUD's ability to mandate notification, there will be less notification and fixing of those defects that are not serious or imminent safety hazard.

It is my understanding that the consumer groups support complete notification and fixing of all defects.

The industry would like to codify existing practice—and eliminate HUD's ability to mandate notification in what the industry considers arbitrary circumstances.

(2) The Permanent Chassis:

Currently, each unit of manufactured housing is required to have a permanent chassis in order to move the house from one place to another.

The Hiler amendments propose the elimination of this permanent chassis. The industry, which supports the amendments, believes that the chassis is unnecessary and costly.

The consumer groups, I believe, have a different concern. They believe that once the chassis is removed, there is very little difference between manufactured housing and modular housing. This becomes a problem because manufactured housing is currently regulated by Federal codes, and modular housing is regulated by stricter State codes. Removing the chassis, and allowing the two kinds of housing to become identical, may open the door to Federal (more lenient) regulation of modular housing.

The consumer groups would like both kinds of housing, manufactured and modular, to be subject to the strictest code possible. In this situation, that means the State codes.

Removing the chassis makes sense to me. But, I don't want to diminish the safety standards that modular housing must comply with. It is my hope, however, that we can find a way to get rid of the permanent chassis requirement while ensuring that manufactured and modular housing comply with strict safety and construction standards.

(3) Fees:

The manufactured housing industry is opposed to using assessment fees (that manufacturers pay HUD) for anything except inspection.

The consumer groups, on the other hand, support using fees for inspection, testing, and research. The consumer groups believe that manufactured housing will be safer with some level of testing and research.

I look forward to exploring this issue at the hearing today.

HUD'S POSITION ON THE HILER AMENDMENTS?

While HUD supports streamlining and reforming the current HUD code, the Department also believes that the Hiler Amendments need refining. HUD particularly wants to retain the power to mandate notification of defects. As the Federal regulator overseeing the manufactured housing standards, HUD should have the discretion to mandate notification when there are problematic defects.

CONCLUSION

Manufactured housing provides a wonderful opportunity for homeownership for citizens from New York to Nevada. I look forward to working with my friend, Senator Bryan, to resolve some of the outstanding issues which remain.

Thank you, Mr. Chairman.

OPENING STATEMENT OF SENATOR DONALD W. RIEGLE, JR.

Senator **Riegle**. This morning we will be examining the impact of proposed changes to the National Manufactured Housing and Construction Standards Act of 1974. Recently, the House Banking Committee reported out H.R. 5157, an omnibus housing bill which makes extensive changes to that act. Pending full House passage of H.R. 5157, the Senate—which passed the National Affordable Housing Act on June 27—expects to meet the House in Conference to develop a compromise package. Thus, the purpose of this hearing is to examine the proposed changes to the act and determine its impact on manufactured housing.

The National Manufactured Housing Construction and Safety Standards Act was created in response to reports that manufactured housing was of poor quality construction and in some cases unsafe. Since enactment, it is widely perceived that the quality and safety of manufactured housing has improved substantially. Since the law was passed in 1974, there have been no significant changes to it.

It is estimated that approximately 12 million Americans live in manufactured housing. In this era of widespread concern over housing affordability, manufactured housing can potentially provide homeownership opportunities at a substantially lower cost than conventional construction methods. Manufactured housing represents 80 percent of all new homes which sold for under $50,000.

Opponents of the proposed changes to the current law argue that the revisions will weaken consumer protection provisions. Supporters of the changes contend that modifications are intended to modernize outdated portions of the law. Today, we will attempt to sort out these issues to determine what steps need to be taken to ensure that manufactured housing remains an affordable housing option which provides a quality and safe living environment.

Senator **Bryan**. To each of the witnesses who are testifying here this morning, we have your entire statement. Because of the number of witnesses, we would like to ask each of you to limit your comments to 5 minutes, if you can, and then we will have a round of questions in which we will try to develop a number of points raised by your testimony.

Mr. Reville, I hope I am pronouncing your name correctly, sir.

Mr. **Reville**. Very close, Mr. Chairman.

Senator **Bryan**. Very close? Well——

Mr. **Reville**. It is pronounced "Ra-velle."

Senator **Bryan**. "Ra-velle." I beg your pardon. Mr. Reville, we would be delighted to start off with you this morning and we welcome you to the hearing.

STATEMENT OF DON A. REVILLE, DIRECTOR, ARIZONA DEPARTMENT OF BUILDINGS AND FIRE SAFETY, PHOENIX, AZ

Mr. **Reville**. Thank you, Mr. Chairman, members of the committee:

I would like to preface my prepared comments by indicating to the committee that the comments contained in my prepared address have been reviewed by the NGA, by the Nevada Administrative Agency for Manufactured Housing, as well as the Homeowners Association for the State of Nevada, and they concur and support these comments.

I am Don Reville, Director of the Arizona Department of Buildings and Fire Safety, Governor Rose Mofford's appointee to and officer of the National Conference of States on Building Codes and Standards, and chairman of the State's Task Force on the Federal Manufactured Housing Program. It is in this latter capacity that I have been invited here today to offer you State government's collective perspective both on needed changes in title VI Housing and Community Development Act of 1974, and amendments contained in the housing bill being discussed in the House of Representatives.

Since HUD contracts with NCSBCS to provide a service, our State Task Force, founded in 1985, does not comment on this relationships or this activity.

If you do not mind, I am going to have to move through this and cherrypick a few of the comments, Mr. Chairman, that I feel are most appropriate and necessary.

Senator **Bryan**. That would be fine, Mr. **Reville**.

Mr. **Reville**. A little more than 15 years ago the Federal Government recognized the need to intervene in this form of housing and provide Federal regulation for the design and construction of manufactured housing. Federal preemption was established in the National Manufactured Housing Construction and Safety Standards Act of 1974, and since that time there have been few modifications.

During the intervening years, HUD as a regulator has done much to eliminate many of the negative connotations carried within this statement of purpose. This could only have been accomplished with the assistance and cooperation of the States and the desire of industry for improvement. The positive steps thus far achieved does not negate the need for continued Federal intervention and presence. Safety, quality, and durability are still priorities for Congress to recognize and maintain and should be combined with a mechanism to allow this industry an effective and efficient method of providing affordable housing.

The Act is not perfect. There are changes and updating that should occur, but not to the extent or the degree that some would indicate are necessary. There are certain factions within industry that speak of regulatory reform, yet their words depict regulatory abandonment.

There are portions of the industry that would limit their liability and tie HUD's hands in the ability to administer the program. All of these are unacceptable by the States and the consumers they represent.

Industry has shown a marvelous resiliency to cost increases and has used innovative manufacturing techniques to accomplish many of the objectives that they have, but oversight of the industry is absolutely necessary. Industry points at portions of the statutes and says "if we can eliminate these, then we would have a viable industry, and we would be able to provide homes at affordable prices." This is not the case.

Many of the statutory sections being addressed by manufacturer amendments are the result of dissatisfaction with regulations and administrative procedures developed within HUD, and not necessarily the statutes. While HUD in the past may have turned a deaf ear to many of the complaints of this industry, now under Secretary Kemp many of these concerns are being addressed.

I am sure in time any of the procedures and policies still of concern can be altered to satisfy both and still fulfill the intent and purpose of the law. Meanwhile, the Federal Government, in cooperation with the States, must be allowed to maintain the level of oversight necessary to assure consumers that the homes they are purchasing are safe, durable, and meet the Federal construction standards. Additionally, should a defect be introduced the manufacturer should be required to meet his responsibilities and make corrections.

I am sure the oral and written presentations will reflect widely divergent views of perceived ills within the manufactured homes program. These varying opinions may certainly leave you, the legislative audience, in a quandary for the direction to proceed for solutions. It is regrettable that for nearly 4 years you have not received a report from HUD on this program. If such a report had been made available, Congress would have had some of the answers to today's issues.

To date, there has only been one substantive study of the manufactured home program and that was completed by the State Task Force on Manufactured Housing in March of 1987. In 1985, 10 years later, the Federal Government chose to preempt the States by regulating the manufactured home industry, and HUD requested the States to establish a mechanism within their national organization to provide additional input into this program.

We responded to this by establishing the State Task Force on Manufactured Housing. This Task Force provided to provide an overview of the industry which took approximately 18 months. In March of last year, as Chairman of the Task Force, I provided an update to the report that reflected very few changes that occurred in the intervening 2 years.

Unfortunately, the legislation, the amendment to title VI appearing in the House of Representatives, does little to address or correct the problems cited in the report. I would request that copies of the report be accepted as a part of my testimony.

Senator **Bryan**. That will be made a part of the record, Mr. Reville.

Mr. **Reville**. In October, a group of State administrators met with members of the Manufactured Housing Institute, MHI, to create the council with MHI as Secretariat. The council's stated purpose is to assure the continued availability of safe and affordable housing in the United States by working cooperatively as States and industry.

Over a 2-year period, States and industry met and attempted to develop amendments to statutes and regulations that would satisfy the concerns of all. Meetings were held, directions were obtained. Unfortunately, some months ago industry members walked away from this mutual working relationship. They instead chose to take a singular road to attempt substantial legislative changes under the guise of "modernization" to which States involved with this program cannot and do not agree.

Why industry now renounces the principles to which they earlier agreed upon, only they can answer. But in the final analysis, the direction they have taken would provide the consumer with a lesser product and less protection. It appears to the States that much of industry's mentality is driven by the idea that the only thing they have to offer to the consumer is price.

The amendments to title VI contained in House Bill 5157 reflect an effort by the House to mediate issues between industry, consumers, and the States. They get a grade of A for their efforts and an F on the results. There are numerous concerns of the State governments created by the proposed amendments with specific major issues by section, as follows:

602: Durability, must remain in the statement of purpose, and the intent of the act should not be diluted with industry platitudes.

603: A number of the States object to the removal of the permanent chassis requirements since it removes the outstanding differences between modular and manufactured homes. I have enclosures that will cover that issue. Recreational vehicles not regulated by Federal statute should not be defined in the statute, thereby preempting state definition. "Defect" and "durability" should be included and defined.

604: "Durable" should be returned to the standards.

608: The Secretary should expend whatever funds are necessary for research, testing, and training and not be encumbered by a percent of fees collected.

618: Defective homes should be corrected, and notices issued by manufacturers whenever information is known that a home is defective and the defect is determined to impact either the habitability or durability of a home.

614: It is not realistic and of questionable value for HUD to receive reports on every inspection and design review performed by third parties. This adds to the workload of all, with HUD barely able to handle their mandated responsibilities in this program now. Since States were preempted, HUD should be clearly directed to work with the States and accept the States as third parties, should they agree to the responsibility. Language considered as redundant and stricken regarding this relationship between States and HUD should be given greater consideration, and recognize the special relationship reflected in the original act in an NGA policy.

615: If Congress in the original act drafted this section to assist consumers, they fell short of their goal. The House amendments in this section further emasculate HUD and the States' authority to render assistance to consumers. This section, both current and proposed, should be disposed of and rewritten to answer both consumer and industry concerns.

616: The warranty provisions established in the House amendments could be best described as "house dressing." Since the warranties provide no detail regarding coverage, they will offer little in the ability of HUD or the States to assist consumers. Most consumers receive assistance via State programs, and this would do little to provide change.

620: HUD fees in rule could result in 2 and 3-year delays before either increases or decreases could be implemented. For most States who must rely on these monies to maintain their SAA programs, this amendment is unacceptable. There are other procedures available for industry or States to comment on changes in fee structures without becoming burdened with this bureaucratic process.

Industry should be put on notice through the rejection of House Amendments to title VI to meet with the states and consumers to work together in drafting legislation that all parties may support. This legislation should have a statement of purpose that recognizes both the important role that this industry has in supplying housing for this Nation, and address "durable, safe, quality, and affordability."

It must provide definitions that are clear and concise and would eliminate confusion and misunderstanding such as the de facto federal preemption of existing State modular laws. It should contain the development of reasonable construction and safety standards and allow for their updating and the ability of industry to take advantage of innovative products and design methods.

It would allow for a reduction in the size of the National Manufactured Homes Advisory Council so it may take a more active advisory role to the Secretary. It should enhance opportunities for input from all parties, as well as allowing the Secretary to continue to do testing and provide training.

It should enhance the cooperation between the public and private agencies and allow States to take a more pro-active role rather than re-active as it is currently. It shall provide for oversight and inspection, and it shall be done in such a way as not to inhibit the manufacturer from his daily activities. It shall require the manufacturer to take a greater and expanded role in assisting consumers for defective homes, but it shall remove some of the concerns industry has regarding notification. It shall direct HUD to enter into rule promulgation on a timely basis so that construction standards and administrative determinations can be properly documented.

Last, this program must be given proper staffing and greater recognition within the department, and that HUD and the Secretary should be more accountable for the monies they receive. The fees received should be used solely for this program. It is unfortunate that fees and monies received by HUD appear not to be available to fulfill the purposes of this program, and as a result the program suffers. The accountability factor cannot and should not be overlooked, and this includes the States as well as HUD. Congress should insist on receiving its mandated update, and know where the program is, what has been accomplished, and future directions on an annual basis.

The States respectfully request that the committee and its members who will deliberate with members of the House will work to set aside House amendments to title VI. The message must be clear to all of the parties that they must return to the bargaining table, negotiate in good faith, and prepare consensus legislation; that Congress is not going to act on amendments that provide singular benefits and will only establish public policy that will truly benefit the public. As an alternative to our request for consensus legislation, the States would urge strong consideration by this committee and Congress to eliminate Federal preemption and return the manufactured home program to the States.

[The complete prepared statement of Don A. Reville follows:]

ROSE MOFFORD
GOVERNOR

DON A. REVILLE
DIRECTOR

DEPARTMENT OF BUILDING AND FIRE SAFETY
1540 WEST VAN BUREN
PHOENIX, ARIZONA 85007
(602) 255-4072

PIMA COUNTY
2675 EAST BROADWAY, SUITE 103
TUCSON, ARIZONA 85716
(602) 795-3574

MOHAVE COUNTY
3900 FRONTAGE ROAD, SUITE #3
BULLHEAD CITY, ARIZONA 86442
(602) 763-8838

OFFICE OF ADMINISTRATION • OFFICE OF MANUFACTURED HOUSING • OFFICE OF STATE FIRE MARSHAL

ORAL TESTIMONY OF
DON A. REVILLE
DIRECTOR, ARIZONA DEPARTMENT OF BUILDING
AND FIRE SAFETY
CHAIRMAN OF THE STATE TASK FORCE ON THE
FEDERAL MANUFACTURED HOUSING PROGRAM

Mr. Chairman, Members of the Committee:

I am Don Reville, Director of the Arizona Department of Building and Fire Safety, Governor Rose Mofford's appointee to and officer of the National Conference of States on Building Codes and Standards and Chairman of the State Task Force on the Federal Manufactured Housing Program.

It is in this latter capacity that I have been invited here today to offer you State Government's collective perspective, both on needed changes in Title VI Housing and Community Development Act of 1974, and amendments contained in the Housing Bill passed by the House of Representatives.

Since HUD contracts with NCSBCS to provide a service, our State Task Force (founded in 1985) does not comment on this relationship or this activity.

The Task Force was established, with encouragement from HUD, to address and prepare solutions to concerns found in statute and regulations governing the manufactured home industry.

A little more than 15 years ago the Federal Government recognized a need to intervene in this form of housing and provide federal regulation for the design and construction of manufactured housing. Federal preemption was established in the National Manufactured Housing Construction and Safety Standards Act of 1974. Since that time there have been few modifications to the Act, and it remains reasonably consistent to what was passed in 1974. Congressional concerns were demonstrated in the Act's statement of purpose, which indicated the need to reduce the number of personal injuries and deaths, and the amount of insurance costs and property damage resulting from manufactured home accidents, and at the same time to improve the quality and durability of manufactured homes.

During the intervening years HUD, as a regulator, has done much to eliminate many of the negative connotations carried within this statement of purpose. This could only have been accomplished with the assistance and coordination of the states, and the desire of industry for improvement. The positive steps thus far achieved does not negate the need for continued federal intervention and presence. Safety, quality and durability are still priorities for Congress to recognize and maintain, and should be combined with a mechanism to allow this industry an effective and efficient method of providing affordable housing.

The Act is not perfect, and there are changes and updating that should occur, but not to the extent or the degree that some would indicate are necessary. There are certain factions within industry that speak of regulatory reform, yet their words depict regulatory abandonment. There are portions of industry that would limit their liability, and tie HUD's hands in the ability to administer the program. All of these are unacceptable by the states and the consumers they represent.

Currently, lending institutions, insurance companies and the buying public are looking at the product of this industry and questioning whether it is a viable form of housing. In the past few years, we have seen a decrease in the number of lending institutions willing to loan money to consumers for the purchase of manufactured homes. Even the federal government questions its role, and whether it should continue its lending programs. Insurance companies, even though statistical data shows that this form of housing is as safe as any other form of housing, have continually placed premiums and obstacles in the way of consumers. The consumers, as a result of unhappy experiences relayed from purchaser to potential purchaser are shying away from manufactured homes. Lastly, local government, counties and cities, have passed a variety of discriminatory zoning barriers to prohibit and exclude manufactured housing.

Industry has held seminars and a variety of meetings over the last few years, with an attempt to isolate and indicate what has precipitated the problems they are experiencing. The consensus opinion from these meetings is that industry has not recognized consumer needs, or changing buying patterns of the purchaser. Consequently, consumers have chosen other forms of housing. While a portion of industry sought to work with HUD and the states to make needed changes, other segments of industry sought a scapegoat for their problems and selected "over-regulation" when, in fact, regulation still adds less cost to the price of a manufactured home than a conventional home inspection. If government, either federal or state, is to continue as the regulator it must be in a position to guarantee consumers safe, durable and quality housing, and this can be accomplished at an affordable price.

The industry has shown a marvelous resiliency to cost increases, and has used innovative manufacturing techniques to accomplish this but, oversight of the industry is absolutely necessary. Industry points at portions of the statutes and says "if we can eliminate these, then we would have a viable industry, and we would be able to provide homes at affordable prices." This is not the case. Many of the statutory sections being addressed by manufacturer amendments are the result of dissatisfaction with regulations and administrative procedures developed within HUD, and not necessarily the statutes. While HUD in the past may have turned a deaf ear to many of the complaints of this industry; now, under Secretary Kemp, many of these concerns have been addressed. I am sure in time any of the procedures and policies still of concern can be altered to satisfy both, and still fulfill the intent and purpose of the law. Meanwhile, the federal government, in cooperation with the states, must be allowed to maintain the level of oversight necessary to assure consumers that the home they are purchasing is safe, durable and meets the federal construction standard. Additionally, should a defect be introduced the manufacturer should be required to meet his responsibilities and make corrections.

At the present time, HUD has an in-plant inspection and oversight program that is working and does not provide the regulatory burden some manufacturers would indicate. This program provides the minimum amount of oversight necessary for receiving states to accept products from shipping states, and parallels the states' own program being utilized for modular buildings.

On the other hand HUD has the State Administrative Agency (SAA) program, which is the portion of the housing act that would provide and correlate information on defective homes. Emphasis is on groups or classes of homes. This program is weak, it needs assistance, and the states in attempting to assist consumers are very frustrated by this section of the statute, and their inability to assist individual consumers. When an analysis is done on Section 615, I think you would all agree that this area is a charade as far as assisting the purchaser. The ability, in my own state, to assist consumers falls outside the federal program, and under an assistance program provided in state statute.

I am sure the oral and written testimonies will reflect the widely divergent views of perceived ills within the manufactured home program. These varying opinions may certainly leave you, the legislative audience, in a quandary for the direction to proceed for solutions. It is regrettable that for nearly four years you have not received a report from HUD on this program. If such report had been made available, Congress would have some of the answers to today's issues.

To date there has only been one substantive study of the Manufactured Home Program, and that was completed by the State Task Force on Manufactured Housing in March of 1987.

In 1985, 10 years after the Federal Government chose to preempt the states from regulating the manufactured home industry, HUD requested the states to establish a mechanism within their national organization to provide additional input into how this program was functioning. We responded to this by establishing the State Task Force on Manufactured Housing. This Task Force proceeded to provide an overview of the industry, which took approximately 18 months, and copies of this were made available to industry, HUD, Congress and the states. This report entitled "Fulfilling the Public's Trust" indicated that the federal program, although well designed, had shortcomings that needed correction, and that all parties, industry, HUD, the states and all other interests, had not fulfilled their obligations to the program.

In March of last year, as Chairman of the Task Force, I provided an update to the report that reflected very few changes had occurred in the intervening two years. Unfortunately, the legislation (the amendment to Title VI appearing in the House of Representatives housing bill) does little to address or correct the problems cited in this report. I would request that copies of these reports be accepted as a part of my testimony.

I would now like to mention another organizational group concerned with the manufactured home industry, which is the Joint State/Industry Council on Manufactured Housing.

In October of '87, a group of state administrators met with members of the Manufactured Housing Institute (MHI) to create the Council with MHI as Secretariat. The Council's stated purpose is, to assure the continued availability of safe and affordable housing in the United States, by working cooperatively as states and industry.

Over a two-year period, states and industry met and attempted to develop amendments to statute and regulations that would satisfy the concerns of all parties. Meetings were held, directions were obtained but, unfortunately, nine months ago industry members walked away from this mutual working relationship. They, instead, chose to take a singular road to attempt substantial legislative changes under the guise of "modernization" to which states involved with this program cannot and do not agree. Why industry now renounces the principals to which they earlier agreed upon, only they can answer. But, in the final analysis, the direction they have taken would provide the consumer a lesser product and less protection. It appears to the States that much of industries' mentality is driven by the idea that the only thing they have to offer to a consumer is price. Whatever they offer, must be affordable, or the public would never choose it or accept it. This mentality also drives the idea that a lesser standard of construction, less oversight, and less consumer assistance is the solution. This is wrong and cannot be accepted; legislation must not be derived from this negative form of thinking.

The amendments to Title VI, contained in HB 5157, reflect an effort by the House to mediate issues between industry, consumers and the states. They get a grade of A for their effort and F on the results.

There are numerous concerns to the state governments created by the proposed amendments, with specific major issues by section, as follows:

602 - "Durability" must remain in the statement of purpose, and that the intent of the Act should not be diluted with industry platitudes.

603 - A number of states object to the removal of the permanent chassis requirements, since it removes the oustanding difference between modular and manufactured homes. (See enclosures.) Recreational vehicles, not regulated by federal statutes, should not be defined in statute, thereby preempting state definition. "Defect" and "durability" should be included and defined.

604 - "Durable" should be returned to the standards.

608 - The Secretary should expend whatever funds are necessary for research, testing and training, and not encumbered by a per cent of fees collected.

613 - Defective homes should be corrected, and notices issued by manufacturers, whenever information is known that a home is defective and the defect is determined to impact either the habitability or durability of a home.

614 - It is not realisic, and of questionable value, for HUD to receive reports on every inspection and design review performed by third

614 - (cont'd.)

parties. This adds to the work load of all, with HUD barely able to handle their mandated responsibilities in this program now. Since states were preempted, HUD should be clearly directed to work with the states, and accept the states as third parties should they agree to the responsibility. Language considered as redundant and stricken, regarding this relationship between the states and HUD, should be given greater consideration, and recognized as a "special" relationship which is reflected in the original Act and in NGA policy. (See attached.)

615 - If Congress, in the original Act, drafted this section to assist consumers--they fell short of their goal. The House amendments in this section further emasculate HUD, and the states' authority to render assistance to consumers. This section, both current and proposed, should be disposed of and rewritten to answer both consumer and industry concerns.

616 - The warranty provisions, established in the House amendments, could best be described as "House Dressing." Since the warranties provide no detail regarding coverage, they will offer little in the ability of HUD or the states to assist consumers. Most consumers receive assistance via state programs, and this would do little to provide change.

620 - HUD fees in rule could result in two and three year delays before either increases or decreases could be implemented. For most states, who must rely on these monies to maintain their SAA programs, this amendment is unacceptable. There are other procedures available for industry or states to comment on changes in fee structures without becoming burdened with this bureaucratic process.

Industry should be "put on notice," through the rejection of the House amendments to Title VI, to meet with the states and consumers to work together in drafting legislation that all parties may support. This legislation should have a statement of purpose that recognizes both the important role that this industry has in supplying housing for this nation, and address "durable, safe, quality and affordability." It must provide definitions that are clear and concise, and would eliminate confusion and misunderstanding, such as the de facto federal preemption of existing state modular laws. It should contain the development of reasonable construction and safety standards, and allow for their updating and the ability of industry to take advantage of innovative products and design methods. It will allow for a reduction in the size of the National Manufactured Home Advisory Council, so it may take a more active advisory role to the Secretary. It should enhance opportunities for input from all parties, as well as allowing the Secretary to continue to do testing and provide training. It should enhance cooperation between the public and private agencies, and allow states to take a more pro-active role rather than re-active as it is currently. It shall provide for oversight and inspection, and it shall be done in such a way as not to inhibit the manufacturer from his daily activities. It shall require the manufacturer to take a greater and expanded role in assisting consumers for defective homes, but it shall remove some of the concerns industry has in regard to notification. It shall direct HUD to enter into rule promulgation on a timely basis, so that construction standards and administrative determinations can be properly documented.

Lastly, this program must be given proper staffing and greater recognition within the department, and that HUD and the Secretary should be more accountable for the monies they receive. The fees received should be used solely for this program. It is unfortunate that fees and monies received by HUD appear not to be available to fulfill the purposes of this program, and as a result the program suffers. The accountability factor cannot and should not be overlooked, and this includes the states as well as HUD (see Task Force report). Congress should insist on receiving its mandated update, and know where the program is, what has been accomplished and future directions on an annual basis.

The States respectfully request that the Subcommittee and its members, who will deliberate with members of the House, will work to set aside House amendments to Title VI. The message must be clear to all of the parties that they must return to the bargaining table, negotiate in good faith, and prepare consensus legislation. That Congress is not going to act on amendments that provide singular benefits, and will only establish public policy that will truly benefit the public. As an alternative to our request for consensus legislation, the states would urge strong consideration by this Subcommittee and Congress to eliminate federal preemption and return the manufactured home industry to state regulation.

DAR:jd
enclosures
7/26/90

ROSE MOFFORD
GOVERNOR

DON A. REVILLE
DIRECTOR

DEPARTMENT OF BUILDING AND FIRE SAFETY
1540 WEST VAN BUREN
PHOENIX, ARIZONA 85007
(602) 255-4072

PIMA COUNTY
2675 EAST BROADWAY, SUITE 103
TUCSON, ARIZONA 85716
(602) 795-3574

MOHAVE COUNTY
3900 FRONTAGE ROAD, SUITE #3
BULLHEAD CITY, ARIZONA 86442
(602) 763-8838

OFFICE OF ADMINISTRATION • OFFICE OF MANUFACTURED HOUSING • OFFICE OF STATE FIRE MARSHAL

THE FOLLOWING COMMENTS ARE IN RESPONSE TO QUESTIONS RECEIVED FROM REPRESENTATIVES HENRY B. GONZALEZ AND JOHN HILER RESULTING FROM TESTIMONY GIVEN BEFORE THE SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT.

Gonzalez 1. - The permanent chassis for manufactured housing has not presented safety related problems, since it is designed and engineered for compatibility with a particular home. The safety concern that the states have is with the removable and then reusable chassis. A totally generic transport system is fraught with potential problems that will only surface with permissive legislation.

Gonzalez 2. - I cannot recall Mr. Wehrman's testimony, nor am I familiar with Section 1797.3 of the California statutes. I would prefer to comment on Arizona's "no cost" consumer assistance program that could culminate in an administrative hearing should proper repairs go unaddressed. This program allows consumers to file a complaint for one year from the date of sale or installation, whichever is the later, for any form of defect or workmanship deficiency. I would strongly oppose any program that would replace this, or any state based method of consumer assistance, with a federal program that would no doubt add cost or complexity. Any federal warranty program should only supplement or act in the absence of a state program.

Gonzalez 3. - Arizona has, along with a small number of states, excellent installation/setup requirements. All installations are inspected to a safety standard, and consumers may file complaints on workmanship deficiencies.

Gonzalez 4. - If federal legislation were to touch on the installation/setup of manufactured housing, and it should be a minimum standard and allow states to establish more stringent requirements if they wish. Any attempt by HUD, as a result of federal legislation, to establish preemptive installation standards would result in a reduction in standards for some states. Additionally, it is doubtful that any federal standard could incorporate the various justifiable regional differences that exist.

Gonzalez 5. - Manufactured housing has been reflective of the general housing market in Arizona, which is down, and would indicate depreciation. The use of blue books as a value guide, by lending and other financial institutions, will almost automatically establish declining home prices, based on age. Also, many times the individual establishing the price has little knowledge regarding this form of housing.

Hiler 1. - Unfortunately, the states have moved very slowly in the development of installation statutes, with approximately 10 states having what might be considered effective programs. The lack of state legislation contains a number of elements, but paramount among them has been a segment of the industry (dealers) that do not support this form of regulation. Without the support of industry, and in some instances opposition, there is little chance for regulatory statutes succeeding. State regulators recognize, and manufacturers agree, that installation is a leading factor in home failure and consumer dissatisfaction. To resolve this impasse, the states are requesting Congress to establish minimum installation standards that could be amended by the states to a more stringent level. Preemptive legislation, without the ability to amend by the states, would give rise to regulations that HUD could not possibly enforce without cooperation from the states.

Hiler 2. - Attached are written procedures used in Arizona by the SAA and consumer complaint manager that answer the first two parts of this question.

The consumer complaint system used by the Arizona Office of Manufactured Housing Division was adopted from the Registrar of Contractors, a state agency that receives and adjudicates complaints from consumers of conventionally built housing. It is an effective and efficient program that resolves between 700 and 800 consumer complaints annually, with 10% or less resulting in administrative hearings. The state complaint system has been functioning for over 10 years, and has the support of industry and consumers.

Hiler 3. - Although I serve on the Board of NCSBCS, I have never participated or become involved with the monitoring contract with HUD. My only knowledge of this contract was an Executive Director's report indicating that certain items were to be negotiated prior to the contract being awarded. Without the attached material I would have found it difficult to respond to this question. Since "questionable costs" are identified as areas in which negotiations should take place and "not to be misunderstood, misconstrued, or misrepresented to imply any improprieties or illegalities on the part of NCSBCS in either its submission of its Cost and Price Proposal, or in the work NCSBCS is performing" logic dictates that those areas were negotiated to the satisfaction of all parties.

Hiler 4. - I don't believe that HUD should be mandated to rely on any group or consensus body for changes to the standard. They should be required to periodically review the standard, and accept recommendations from all sources. I feel that no single source or organized group should have a "direct pipeline" to HUD and the standards.

Hiler 5. - I was not familiar with the Formost Insurance Company's report on manufactured homeowners' satisfaction with their home. As a regulatory department in state government, we do not engage in poll taking or attempt to measure consumer acceptability. I can say that over 20% of the consumers purchasing manufactured housing feel the need to file a complaint with the state to receive service work due to faulty workmanship and other deficiencies.

Comments
Gonzalez & Hiler
Page 3

Hiler 6. - The Hiler proposal on a mandated one-year warranty is of questionable value to consumers.

- Manufacturers already provide warranties,
- There are no specifics as to what is warranteed.
- Since many state programs are already in place, and stronger than the federal program, preemption would have a negative impact.
- The manufactured home program is "small potatoes" in HUD's overall responsibilities, and I am sure this added program would never receive the attention it deserves.
- State programs have little or no costs, while a program in federal court could result in an expensive complaint evaluation procedure.
- The federal warranty should supplement or act in the absence of a state program.

The consumers manual definitely needs revisions, particularly the area providing installation instructions. This section must be written to a level of understanding no higher than a high school graduate. The installer is the least educated of all the segments of the industry, and one of the most important.

Hiler 7. - Consumer protection may be maintained or enhanced in the area of transportation through the strengthening of the SAA program. Retail lot inspections, as a part of this program, could be a requirement and not an option. This could be accomplished by including this within the agreements between HUD and the states. Quarterly reports regarding the inspections and findings should be mandatory, and there would be reimbursement to the inspecting party. Installation and tiedown requirements should be established in statute, as a minimum standard, allowing the state or local government to enhance these requirements if appropriate. The standard for these items would be established in rule, and subject to annual review and updating, similar to the construction standard. These additional provisions will provide greater protection for consumers, and will also direct housing complaints to the party creating the problem. Many times the manufacturer has to correct problems created at the retailer-installer level, which is not appropriate and very expensive.

Representatives Gonzalez and Hiler, I wish to thank you for giving me, and the states, an opportunity to further express ourselves through the questions provided.

The states wish to thank both gentlemen for their leadership and hard work in Title VI but, unfortunately, at this time it does not meet the needs or objectives of consumers, industry or the states.

In conclusion we, the states, would urge that this section of the Housing Bill be scrapped, and that all parties (industry, consumers and the states) be encouraged to return to the bargaining table. The need to draft consensus legislation that would better serve everyone is possible, and should be from Congress' viewpoint -- the correct solution.

Sincerely,

Don A. Reville

Don A. Reville, Chairman
State Task Force on the
Manufactured Housing Program
and
Director, Department of Building
and Fire Safety, State of Arizona

DAR:jd
attachments
7/05/90

May 24, 1990
Hearing held by the
Subcommittee on Housing and Community Development
entitled "Manufactured Housing Construction and Safety
Standards Act of 1974"

Questions from Chairman Henry B. Gonzalez to

Mr. Don A. Reville

Questions from Chairman Henry B. Gonzalez to Mr. Reville:

1. What are the safety implications (if any) of each kind of chassis--permanent versus removable? Can you give examples?

2. Mr. Len Wehrman, Vice President for Government and Industry Relations for the National Foundation of Manufactured Homeowners, brought to the attention of the Housing Subcommittee in his testimony the California State Warranty requirements. Would you support or oppose language in the Hiler amendment warranty which paralleled Section 1797.3 of the California Statute? Why?

3. Are there any warranties in existence that cover installation and set-up of manufactured homes?

4. The Hiler amendment stipulates pre-emptive federal standards. How might this impact consumers from areas with specific regional concerns--such as California's concerns of earthquakes--if the States cannot impose stricter standards for these special conditions than the federal standards.

5. As a general rule, do manufactured homes appreciate or depreciate? And what are the specific reasons for this property value increase or decrease?

May 24, 1990
Hearing held by the
Subcommittee on Housing and Community Development
entitled "Manufactured Housing Construction and Safety
Standards Act of 1974"

Questions from Congressman John Hiler to

Mr. Don A. Reville

Questions from Congressman John Hiler to Mr. Reville:

1. It is my understanding that installation issues are one of the biggest problems with respect to consumer complaints. What are the states doing to address this issue?

2. How does your State Administrative Agency (SAA) consumer complaint process work?

   How do your differencitate between HUD Code violations and all others, those that are covered by the warranty for example? Do you follow up with the manufacturer to ensure that the issues are settled?

   Is this consumer complaint system unique to the manufactured housing industry and is it effective in you state?

3. Are you aware of a HUD Inspector General's Audit Report issued in 1988 regarding NCSBCS' monitoring contract with HUD? (copy enc.)

   . . Are you aware that the report showed more than $2 million in questioned costs?

   . . Are you also aware of $889,055 in questioned costs that are specifically identified to be unsupported, unreasonable of contingent?

   . . How were these questionable costs ultimately resolved?

(continued--see questions 4-7)

4. I understand you serve on the MHCSS Act consensus committee which reviews the HUD code and makes recommendations to HUD on an annual basis for changes to the standards. I believe the Hiler amendments support this concept and require HUD to rely on this and other consensus groups.

   Do you think that this provision has the potential to improve the HUD code?

5. Are you aware of the Foremost Insurance Company's recent report, Manufactured Housing, the Market Facts?

   It indicates that 87% of all the manufactured homeowners were satisfied with their home and that 57% were very satisfied. Frequently mentioned advantages focus on affordability and low maintenance costs as a major advantage.

   From you experience, do you agree with these results?

6. I understand that many of your concerns are related to the consumer protection provisions. Doesn't the requirement in the Hiler proposal for a one-year warranty help to address some of your concerns?

   Also, would you support an additional requirement now under consideration to mandate a pre-inspection walkthrough checklist for the homeowner along with improvement in the existing consumer manual as an effort to correct problems before occupancy?

7. We are very interested in addressing more specifically your interests in assuring that consumers are protected with respect to the important aspects of transportation, installation, and tiedown requirements currently not covered by the HUD code. What are your recommendations for addressing these issues?

OFFICE OF THE GOVERNOR
STATE HOUSE
PHOENIX, ARIZONA 85007

EVAN MECHAM
GOVERNOR

IN REPLY
REFER TO:

May 19, 1987

Mr. Robert C. Wible
Executive Director
National Conference of States
 on Building Codes and Standards
481 Carlisle Drive
Herndon, Virginia 22070

Re: Delegate to National Conference of
States on Building Codes and Standards

Dear Mr. Wible:

This is to designate Mr. Don A. Reville, Director for the Department of Building and Fire Safety, as delegate to the National Conference of States on Building Codes and Standards. Mr. Reville will serve in this capacity until you are otherwise notified.

Sincerely

Evan Mecham

Evan Mecham
Governor

EM:aem

cc: Mr. Don A. Reville, Director
Dept. of Building and Fire Safety

NCS BCS

NCSBCS STATE TASK FORCE
ON THE
FEDERAL MANUFACTURED HOUSING PROGRAM

FINAL REPORT

" FULFILLING THE PUBLIC TRUST"

MARCH 12, 1987

NCS BCS
National Conference of States on Building Codes and Standards, Inc.
481 Carlisle Drive, Herndon, Virginia 22070 (703) 437-0100

March 12, 1987

Dear Reader:

We are pleased to present this final report and specific recommendations on the Federal Manufactured Housing Program.

The governor-appointed delegates of the National Conference of States on Building Codes and Standards, Inc. formed this task force to provide a forum for collecting the states' views on this federal preemptive program. The views of parties interested in and affected by the national program have been encouraged and are contained herein.

After eighteen months of work we present in this report a portrait of a federal program which was well designed but which has had some significant shortcomings in its implementation; shortcomings which require immediate attention if the program is to live up to its full potential of adequately assuring health, durability, and life safety in manufactured homes. The recommendations enclosed herein challenge all parties to this national program; HUD, the states, Congress, the industry, and consumers to take steps to live up to the requirements of the federal law by improving the program's structure and implementation.

Over the past 50 years, the manufactured housing industry has served an important role in the nation's housing marketplace. By 1985, over 12 million Americans resided in manufactured homes. Our nation today, however, is faced with an overwhelming need for safe, decent, affordable housing. New York State alone, for example, has a current gap for all types of housing of nearly one million units. The task force believes that a cooperative pursuit of the recommendations contained in this report by the industry and federal, state and local governments will enable the manufactured housing industry to assume a greater role in meeting the nation's pressing housing needs.

The goal of the states in undertaking this endeavor has not been to increase regulation, but to promote a fair and equitable regulatory system that assures safe, decent, and affordable housing, with minimal burdens of cost and time placed on this important industry. These

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JACK L. DANIEL
DIRECTOR
OFFICE OF HOUSING AND
ENVIRONMENTAL HEALTH
LINCOLN, NEBRASKA

FIRST VICE PRESIDENT
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STATE BUILDING COMMISSIONER
PROVIDENCE, RHODE ISLAND

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DEPUTY DIRECTOR
DIVISION OF HOUSING
TRENTON, NEW JERSEY

JOHN WENNING
DIRECTOR
BUILDINGS AND STRUCTURES
MADISON, WISCONSIN

EXECUTIVE DIRECTOR
ROBERT C. WIBLE

recommendations will streamline and eliminate significant weaknesses in the existing federal program and enable the program to finally live up to the original intent of Congress when it preempted state regulatory authority over manufactured housing 13 years ago.

Government and industry have a relationship with the public that is based on trust. The proposals we offer are intended to improve the national program, and to safeguard and fulfill that trust.

We urge everyone involved in this national program to consider and act on the recommendations we have presented. With cooperation, we believe that this program can better meet the nation's need for safe, decent, and affordable housing.

Sincerely,

Mary Beth Bowman

Mary Beth Bowman (Arkansas)
Chairperson, NCSBCS State Task Force on the
Federal Manufactured Housing Program

Richard E. Wolfe (Arizona)
Western Regional Representative

John Steele (Texas)
Southern Regional Representative

Al Haboush

Al Haboush (Indiana)
Midwestern Regional Representative

David Preble (Maine)
Northeastern Regional Representative

EXECUTIVE SUMMARY

"Fulfilling the Public Trust"

Thirteen years ago, state regulatory authority over the design and construction of manufactured (mobile) homes was preempted by the United States Congress. Since then the states have participated together with the manufactured housing industry in the Federal Manufactured Housing Construction and Safety Standards Program administered by the U.S. Department of Housing and Urban Development (HUD).

In 1985, the states, with encouragement from HUD, formed a special task force to review the performance of that federal preemptive program and make recommendations for correcting any deficiencies which they found in that system.

After 18 months of work, the NCSBCS State Task Force on the Federal Manufactured Housing Program presents in this Final Report a portrait of a federal program which was well designed, but which has some significant shortcomings in its implementation. These shortcomings are the responsibility of all of the parties to the federal program: the states, HUD, third party agencies, manufacturers, dealers, installers, consumers, and to a certain degree Congress which retains oversight responsibility for the Federal Act.

In describing these areas where the federal program has fallen short of fulfilling its mandate, the task force offers a wide range of recommendations for the states, Congress, HUD, third party agencies, manufacturers, dealers, and consumers.

The major recommendations offered by the task force to streamline and enable the Federal Manufactured Housing Construction and Safety Standards Program to help industry fulfill that purpose are as follows:

Recommendation #1: Do not return the nation to the non-uniform regulatory system as it existed before federal preemption--rather work with the current system to correct its deficiencies and raise it to function as it was originally intended.

Recommendation #2: A uniform national state-based system must be established that promotes the adoption and enforcement of manufactured housing installation standards by state and local units of government. Such a system must also provide for the bonding and licensing of dealers and installers.

Recommendation #3: The federal construction and safety standards for manufactured housing must be immediately updated and kept current. Areas needing special attention are condensation, thermal protection, and structural requirements.

Recommendation #4: Quality control must be made "Job #1" by industry and by all third party agencies. In that regard, quality control and third party personnel should be tested and certified.

Recommendation #5: HUD must work with inspection agencies (both private and state) to improve their ability to adequately perform their duties in this program. HUD needs to take prompt enforcement actions.

Recommendation #6: HUD should continue its recently initiated testing of manufactured housing components and follow-up on those components that fail.

Recommendation #7: The SAA (consumer complaint mechanism) Program needs and is receiving from HUD immediate attention. Greater communication and coordination between HUD and the states are necessary to make the program more effective. The states, for their part, need to fulfill their SAA responsibilities.

Recommendation #8: The states must live up to all their responsibilities in the federal program.

Recommendation #9: HUD, the states, and industry must work cooperatively to make the consumer more aware of the importance of proper installation, adequate maintenance, and the benefits and responsibilities of the Federal Manufactured Housing Program.

Recommendation #10: HUD must improve its communication with the Congress and enhance its Biannual Report to Congress on this program.

Recommendation #11: An effective coalition and working partnership of the manufactured housing industry; consumers; and federal, state, and local officials should evaluate and implement improvements to the Federal Manufactured Housing Program.

Recommendation #12: Congress should hold oversight hearings on the Federal Manufactured Housing Program.

The task force concludes its report by noting that "each of these important shortcomings are correctable. The federal program has demonstrated that safe, durable, and affordable homes can be manufactured, sold, and sited in all areas of the United States. The problems which do exist can be resolved without costly new regulations, programs, or expensive changes to the federal law, regulations, and standards. The most significant factor required to bring this about; however, is a sincere commitment by government (federal, state, and local) and industry to work cooperatively in the public interest."

The task force looks forward to working with each of the participants in the federal program in evaluating and implementing the recommendations contained in this report. Together, we believe we can fulfill the nation's trust and assist the nation's manufactured housing industry in providing safe decent and durable housing.

Chapter 1

Brief History of the Manufactured Home Industry

We can only shake our heads in amazement when we see a present day manufactured home. We realize just how far industry has progressed since the early "trailers" of the forties. It was only after the end of World War II that the trailers pulled by automobiles began to be used for permanent housing. Most of those "house trailers" were units eight feet wide and 25 to 30 feet long. As the public demand for these small mobile housing units increased, they were made more livable by enlarging them to ten and 12 foot widths. In the middle sixties, units of 12 feet and 14 feet widths were introduced and became quite popular. At the same time, the lengths of the homes also increased from an average of 50 feet in the late fifties to 70 feet by the late sixties. During that same time, the industry saw a sharp increase in the popularity of double wide homes (two units joined together) and moved the units toward a more "site-built" appearance.

One of the major problems for the industry during these periods was a lack of uniformity in the state approved manufacturing standards of these homes. The manufactured housing industry, in conjunction with the National Fire Protection Association (NFPA), and the American National Standards Institute (ANSI), developed and promoted the use of ANSI Standard A119.1 for mobile home body and frame designed construction. Not all states and local jurisdictions were willing to adopt this or any standard; by 1972 only 36 states had laws covering manufactured home construction. This lack of uniformity in the regulation and inspection of the homes made it difficult for the manufacturers to ship interstate.

In the late 1960's and early 1970's, the state governments, working through the National Conference of States on Building Codes and Standards, Inc. (NCSBCS). and in conjunction with the industry, identified the need to establish a program of interstate reciprocity for the regulation of manufactured (mobile) housing. Over several years, NCSBCS held meetings and drafted model reciprocity procedures in an attempt to establish a workable voluntary interstate reciprocity program aimed at improving the health and life safety features of manufactured housing.

By 1974, several well publicized health, durability and life safety problems in manufactured homes made it apparent that a voluntary program would not work, and federal legislation to preempt (under the interstate commerce clause) the states' regulatory authority over manufactured housing was written.

In early 1974, Congress passed Title VI of the Housing and Community Development Act of 1974, "The National Mobile Home Construction and Safety Standards Act."* That law became enforceable on June 15, 1976. In assuming this regulatory authority, Congress recognized the importance of involving the states to the fullest extent possible** in the federal program.

The federal law, standards, and rules and regulations provided relief for the manufacturer in that they mandated a single preemptive Federal Standard for homes to be constructed and established the mechanism for uniformity in the inspection procedures. The creation of the federal law was a leap forward for the industry as it now could ship freely into any other state without repercussions. At the same time, the introduction of the federal program moved the industry upward in quality, durability, and safety.

In the initial years of the federal program there was a shake out where some manufacturers stopped producing manufactured housing rather than meet a minimum Federal Standard. This coincided with a financial downturn in the nation's economy and a decline in the sales of manufactured housing.

* See Appendix C. The Federal Act was amended in 1977, 1978, 1979, 1980, and 1982.

** That legislative intent is clearly shown in Sections 609 and 614(b)(2) of Title VI of the Housing and Community Development Act of 1974, and the Senate Report which accompanied the Act which "contemplated that to the maximum extent, the enforcement of standards would be taken on by the states under plans approved by the Secretary." Section 1974 U.S. Code Cong. and Ad News 4340 and HUD's own regulatory requirements note that the Secretary is to "involve state agencies in the enforcement of the Federal Manufactured Home Standards to the maximum extent possible consistent with the capabilities of such agencies and public interest." (Paragraph [b], Section 3282.1 Scope and Purpose, Subpart [A] - General of the May 13, 1976 Manufactured Home Procedural and Enforcement Regulations).

In the late 1970's and early 1980's, however, the changes in the marketability* of manufactured homes coupled with an increase in the quality, durability, and safety of homes due to the U.S. Department of Housing and Urban Development (HUD) program, helped stimulate the growth of the manufactured housing industry.

By 1985 approximately 12 million Americans lived in manufactured homes.** In 1984-85 manufactured housing accounted for over 50% of the total new single-family residences constructed or sited in the states of Oregon and South Carolina. During this same time period, HUD's Federal Housing Administration (FHA) began to provide permanently-sited manufactured homes with 30 year mortgage loans at the same interest rates as site-built structures. The Veterans Administration (VA) followed that practice in 1984. The secondary mortgage market for manufactured home loans was picked up by the Government National Mortgage Association, Federal National Mortgage Association, and Federal Home Loan Mortgage Corporation, and a secondary market program for manufactured housing personal property loans also was established.***

As this program reached its tenth year, the participating states began to see several problem areas that needed resolution. The mechanisms for handling consumer complaints were not functioning adequately. There appeared to be a decline among some manufacturers in product durability. The Federal Standards needed to be updated to reflect changes in technology and the needs of industry and consumers. In addition, the states were very concerned that attempts to keep the Federal Standards updated had failed. Noting on one hand that industry had supported meaningful change in the regulation of formaldehyde within the Federal Standards as a means of counteracting the negative press they had received on this issue, the states expressed concern that similar industry support was not forthcoming on the other equally important aspects of the outdated Federal Standards such as condensation and energy conservation.

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* The sales of manufactured housing increased proportionately with the dramatic increase in mortgage rates for single-family, site-built housing.

** For an analysis of the demographics of manufactured home residents, see 1980 Census of Housing, Series HC80-3-2; Mobile Homes, U.S. Census Department. Also see Appendix B.

*** See Appendix D.

State regulatory officials in particular noted that the referenced standards used under the HUD program were similar to the uniform model building codes used throughout the country in site-built housing at the time the federal program began. This being the case, the states as partners in the federal program expressed concern that the older Federal Standards were further eroding the arguments they put forth on behalf of the industry in zoning hearings throughout the country that manufactured housing and site-built housing are relatively comparable.

In the Spring of 1985, therefore, the governor-appointed delegates of NCSBCS passed a resolution calling upon HUD to enter into a dialogue with the states on ways of improving this important federal program. Subsequently, during the NCSBCS 18th Annual Conference in Portland, Maine in September 1985, a symposium was held on the "Role of the States in the Federal Manufactured Housing Program." During that symposium, HUD Deputy Assistant Secretary for Single Family Housing James Nistler urged the states to establish within their national organization a forum through which the states could collectively review the strengths and weaknesses of the federal program.

The NCSBCS State Task Force on the Federal Manufactured Housing Program was created in September 1985 as a forum for the states to collectively assess problem areas and bring them to the appropriate parties for resolution. In establishing the task force, the NCSBCS Board of Directors approved funding for the project from state government and membership services accounts and prohibited the task force from commenting on the NCSBCS manufactured housing program monitoring contract with HUD.* Further background on the composition and work of the task force are contained in Chapter 7, "Overview of Task Force's Activities."

* See Appendix E.

Chapter 2

Overview of the Federal Program

"Manufactured Housing Responsibilities and Structure"

Public Law 93-383, Title VI - [Manufactured] Home Construction and Safety Standards

> Statement of Purpose: Sec. 602. The Congress declares that the purposes of this title are to reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from [manufactured] home accidents and to improve the quality and durability of [manufactured] homes. Therefore, the Congress determines that it is necessary to establish Federal construction and safety standards for [manufactured] homes and to authorize [manufactured] home safety research and development.

When the U.S. Congress passed Title VI of the Housing and Community Development Act of 1974* and established the Federal Manufactured (mobile home) Housing Program within HUD, it created a unique partnership among federal and state governments, the nation's private sector, and the American consumer.

This partnership entails certain responsibilities which remain vital to the original intent of the federal preemptive legislation:

A. For the federal government, Congress installed with the Secretary of HUD the responsibilities for:

1. The development and maintenance of a uniform minimal Federal Standard for health, life safety, and durability of manufactured housing design and construction which "shall be reasonable and shall meet the highest standard of protection."
2. The development and implementation in conjunction with state government and the private sector of an effective monitoring and regulatory enforcement system, including a consumer complaint handling mechanism. This system should assure that homes built under the federal preemptive laws will meet these minimal standards without imposing an undue burden of cost or time on the industry.

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* See Appendix C.

3. The establishment and conduct of research, testing, and training "necessary to carry out the purpose of this title."

4. The submission to Congress of a Comprehensive Biannual* Report on the status of the federal program.

B. For the state governments, whose existing laws and regulations over manufactured housing were preempted by the federal government, Congress assured the states the opportunity to play a responsible role by:

1. Being consulted directly by the Secretary of HUD on issues related to the development and maintenance of the Federal Standards.

2. Providing state representatives on the Federal Manufactured Housing Advisory Council to help update the preemptive Federal Standards, and review and comment on aspects of the federal program.

3. Retaining the absolute right to, at any time, establish with federal funding their own parallel equivalent enforcement program based upon the Federal Standards.**

4. Assuring the states a partnership role "to the greatest extent possible" with the federal government in the implementation of the federal monitoring and regulatory system which HUD developed and carries out by enabling the states to:

    a. Provide qualified state employees to HUD's program monitoring teams.

    b. Serve as non-exclusive IPIAs or DAPIAs.

    c. Serve as exclusive IPIAs.

    d. The right to set up and maintain the consumer complaint mechanism for the federal program as a SAA which provides the consumer with a recourse for the resolution of complaints.

    e. Continue to adopt and enforce state and local manufactured housing installation requirements or other consumer protection requirements (e.g. bonding and licensing of dealers, manufacturers, and installers).

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* The original Act called for Annual Reports to Congress. These are now submitted biannually.

** In the 11 years that this program has been implemented, no state has felt the necessity of departing from HUD's overall program and establishing a separate system.

C. To the private industry. Congress gave the responsibility for:

1. Having representatives on the Federal Manufactured Housing Advisory Council to participate in the maintenance of the Federal Standards and other major regulatory aspects of the federal program

2. Designing and building homes which meet the uniform minimum Federal Standards for manufactured housing and make notifications and corrections of defects. The Act specifically requires that "every manufacturer of mobile homes shall furnish notification of any defect in a class of mobile homes produced by such manufacturer which he determines, in good faith, relates to a Dederal mobile home construction or safety Standard or contains a defect which constitutes an imminent safety hazard." If an imminent safety hazard is found, then the manufacturer is required to make necessary corrections.

3. Cooperating with HUD and its designees in conducting "such investigations as may be necessary to promulgate or enforce federal mobile home construction and safety standards." As developed by the HUD regulations, this requires that the private sector shall:

   a. Work with HUD, its monitoring agent, and the states in the implementation of the Federal Standards enforcement program.

   b. Work with the SAAs and HUD in the resolution of consumer complaints.

   c. As dealers and installers of manufactured homes, not alter any manufactured home in such a way that the home is taken out of conformance with the Federal Standards. (The states, under the SAA program, are authorized to approve all dealer alterations.)

D. For the consumer. Congress spelled out no special responsibilities except for the opportunity to participate on the Federal Manufactured Housing Advisory Council. However, by establishing a uniform federal preemptive program, Congress did imply that the consumers have recourse should the home they purchased not be designed or produced in conformance with the Federal Standards.*

The Structure of the Federal Program

HUD recognized from the beginning that it could not and should not try to establish a program which certified absolute compliance. The cost of such a program would not be reasonable and the regulations would be more stringent than those employed by the states and local governments on other types of residential construction (site-built and modular) which do not monitor every aspect of the construction process for every home. The Federal Manufactured Housing Program was in part based upon the states' experiences. The federal program:

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* The state agencies functioning as SAAs provide this recourse to consumers in 35 states, however, HUD serves as the final recourse for consumers from all states.

1. Set a minimal standard for health, life safety, quality, and durability for all manufactured housing constructed in the U.S. and established within HUD a mechanism for updating that standard to keep it both "reasonable" and at the "highest standard of protection."

2. Established a regulatory mechanism which enables manufacturers to employ third party agencies (either state or private) to assure that both product design and construction are in compliance with the Federal Standards.

3. Established a minimal monitoring system to oversee both third party design reviews (DAPIAs) and performance in-plant (IPIAs). This is a spot-check system. Presently, only 10% of the design packages are reviewed and monitoring visits to plant facilities are performed once or twice a year, with some follow-up visits to poorly performing third party agencies and manufacturing facilities.*

4. Established a reasonable enforcement mechanism enabling HUD to take action against third parties (private and state) that do not adequately perform their responsibilities under the Federal Act.

5. Established a consumer complaint mechanism which gives manufacturers and dealers the opportunity to notify the consumer of defects and work directly with the consumer to resolve complaints. Participating state governments have the responsibility to monitor the manufacturer's actions and follow up on unresolved consumer complaints. HUD may gather data to determine whether or not an isolated consumer complaint is the result of a major failure to conform with the Federal Standards and part of a problem posing a safety hazard involving a large number of homes (a class action).

6. Required manufacturers to provide installation instructions with each manufactured home and encouraged states or localities to adopt and enforce installation standards.

7. Set a low labeling fee of $19** per home to cover the cost of the HUD monitoring and SAA functions.

8. Required HUD to issue annual reports to Congress on the status of this program. These are now issued biannually.

* This function is performed by NCSBCS under contract with HUD and will not be commented on within this report.

** In 1985 the label fee was readjusted to $16 per floor unit (see page 27 for further discussion).

NCS BCS National Conference of States on Building Codes and Standards, Inc.
481 Carlisle Drive, Herndon, Virginia 22070 (703) 437-0100

September 20, 1985

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OFFICE OF MANUFACTURED HOUSING
PHOENIX, ARIZONA

EXECUTIVE DIRECTOR
ROBERT C. WIBLE

Mr. James Nistler
Deputy Assistant Secretary
for Single Family Housing
Department of Housing and Urban
Development
451 Seventh St., S. W., Room 9282
Washington, D. C. 20410

Dear Jim:

On behalf of the governor appointed delegates of thirty-two states attending our Eighteenth Annual Conference in Portland, Maine last week, I want to thank you for taking the time on September 9 and 10 to participate in the state's candid sharing of their views on the Federal Manufactured Housing Construction and Safety Standards Program. As the 1985-86 President of the National Conference of States on Building Codes and Standards, Inc. (NCSBCS), I greatly appreciated your acceptance of the request made by the states earlier this year that they meet with you in a public forum in which they could express their concerns and views. The states are especially appreciative of being able to have had the opportunity last week to recommend to you and to the Department ways of further enhancing this federal program which ten years ago preempted state regulatory authority over such structures.

Meeting in General Session on Wednesday, September 11, 1985, the delegates instructed me to write to you not only to thank you for your participation during our annual meeting, but also for the efforts which you have undertaken since becoming Deputy Assistant Secretary, to enhance HUD's enforcement of this important public safety program. As you heard on September 9th, the states have had some significant concerns in this area and are supportive of your efforts to strengthen HUD's enforcement activities.

In recognition of Congress' intent that the preempted states remain, to the fullest extent possible, active participants in this federal regulatory program, our delegates are looking forward to following through on your request that they meet with you more frequently to share their comments and recommendations for ways to help the Department to better ensure that only conforming manufactured homes are being built in this country. To carry out that task, I am pleased to inform you that at the direction of our delegate body, the NCSBCS Board of Directors on September 12th approved the formation of a special state delegate task force which will carry on the dialogue we initiated with you last week. I have asked our Arkansas delegate and member of your National Manufactured Home Advisory Council, Ms. Mary Beth Bowman to chair that body which will report to our NCSBCS Regulatory Affairs Committee. The Task Force has been charged with coordinating state comments to you on the Federal Manufactured Housing Construction and Safety Standards, and only on those procedural, regulatory and statuatory issues related to the HUD program which are of direct concern to the states and their citizens. The task force will not comment on the contract or the day to day activities of HUD's monitoring agent. Any state comments on those aspects of the HUD monitoring program will continue to be communicated directly to the Department by each state.

Ms. Bowman is currently naming the members of her task force and she will be in touch with you in the near future to discuss a possible date and location for the task force's first meeting with you.

Once again on behalf of the States, I want to thank you for listening and caring about our concerns and recommendations on this important regulatory program.

Sincerely,

Dave

David M. Hammerman
President, NCSBCS

DMH/pch

cc: Governor Harry Hughes, Maryland
Governor Lamar Alexander
  Chairman National Governors Association
Governor Michael Dukakis, Massachusetts
  Chairman Economic Development
  Technological Innovation Committee,
  National Governors Association
Members of the Staff Advisory Council to the
  Economic Development and Technological
  Innovation Committee
Mary Beth Bowman, Arkansas Delegate,
  Second Vice President, NCSBCS
NCSBCS Delegate Members

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NCSBCS STATE TASK FORCE ON THE FEDERAL MANUFACTURED HOUSING PROGRAM

Purpose

In recognition that the ongoing communication between the states' public safety officials and HUD officials is vital for a successful implementation of the federal preemptive standards for manufactured (mobile) homes, NCSBCS delegate members have established this oversight task force to review procedures and practices in the federal program and take the lead in coordinating state comments and recommendations to HUD for needed reforms in the procedural, regulatory, and statutory aspects of this program.

Objectives

1. Review (from states' point-of-view) the past ten years of federal preemption in this program and comment on the overall impact of the program on the product and protection of the consumer's interests, and identify existing problems in the federal regulations, rules, and procedures which need to be corrected to strengthen the program.
2. Identify areas of state role and responsibility in the program, assess states fulfillment of those responsibilities, and inform states what their rights and responsibilities are.
3. Establish an information coordination mechanism so states can better understand all aspects of this regulatory program.
4. Research and establish a funding mechanism for the task force.

THE NATION'S REGULATORY SYSTEM FOR HOUSING

(STRUCTURE AND APPROXIMATE COSTS)

	SITE-BUILT HOUSING Regulated by State and/or Local Governments	INDUSTRIALIZED/MODULAR BUILDINGS Regulated by State and/or Local Governments	MANUFACTURED (MOBILE) HOUSING Regulated by Federal Government (HUD)
ON-SITE PERSONNEL	• Contractor job superintendent • One master carpenter, plumber, and electrician licensed by the state	• Manufacturer's quality control personnel • Some states require a licensed plumber and electrician to be on the job	• Manufacturer's quality control personnel (uncertified) • A foreman who is not required to be licensed or certified
DESIGNS	Designs must be prepared by a state licensed/registered engineer or architect. The local building department must approve the designs.	Designs must be approved by the state or by a state approved third party agency. The state conducts periodic oversight of of the plans approved by the third party agencies.	Designs must be approved by a HUD approved third party agency (public or private). HUD, through its monitoring agent, reviews a percentage of the approved plans.
REGULATORY INSPECTIONS	The local building department performs a minimum of five field inspections on each house: • Foundation • Frame • Mechanical • Electrical • Final Finish	The third party agency or state official monitors a plant by visiting a plant often enough (every day or every other day) to see, at a minimum, one part of every home somewhere in the production process.	The HUD approved third party agency (public or private) monitors a plant by visiting a plant often enough to see, at a minimum, one part of every home somewhere in the production process.
MONITORING	No further inspection or monitoring procedures involved.	State officials monitor third party agencies by visiting each plant twice a year and by inspecting the homes on-line. Some states carry out more frequent inspections, depending upon a third party agency's performance.	HUD's monitoring agent monitors third party agencies by visiting each plant at a maximum average (14 hours total) of 1.8 times per year and by inspecting the homes on-line. HUD's regulations allow for up to four times a year, depending upon third party agency's performance.
APPROXIMATE AVERAGE COST PER HOME	Local building permits $275 - $500	State Label Fee $75 - 150 Fees to Third Party $100 - 200 TOTALS $175 - 350	HUD Label Fee $24 (per floor) - $48 Fees to Third Party $ 35 - $80 TOTALS $ 59 - $128

NCS BCS

"FULFILLING THE PUBLIC'S TRUST—TWO YEARS LATER"

March 31, 1989

DON A. REVILLE
Chairman of the NCSBCS State Task Force
on the Federal Manufactured Housing Program
and
Director, Arizona Department of Building
and Fire Safety

FOREWORD

The following pages provide a brief summary of the actions undertaken or being planned to implement the 12 recommendations contained in the NCSBCS State Task Force on the Federal Manufactured Housing Program final report, "Fulfilling the Public's Trust."

Comprised of NCSBCS state governor-appointed delegate members from each of the four regions of the United States, the task force is working to carry out the objectives it set in 1985, and to work cooperatively with federal officials, the states, and representatives from all segments of the nation's manufactured (mobile) housing industry, in addition to implementing each of the final report's 12 recommendations.

More information can be obtained by contacting the task force's Technical Secretary, Robert C. Wible, Executive Director, National Conference of States on Building Codes and Standards, Inc., 481 Carlisle Drive, Herndon, Virginia 22070; (703) 437-0100.

"FULFILLING THE PUBLIC'S TRUST—TWO YEARS LATER"

Recommendation #1

Do not return the nation to the non-uniform regulatory system as it existed before federal preemption—rather work with the current system to correct its deficiencies and raise it to function as it was originally intended.

Actions

- On July 28, 1987, the National Governors' Association adopted the following housing policy supporting the above recommendation and the findings of the NCSBCS State Task Force on the Federal Manufactured Housing Program final report, "Fulfilling the Public's Trust." Since that time, in support of this report and the following NGA policy, NCSBCS members and staff have worked cooperatively to begin to carry out the final report's recommendations.

> Manufactured (mobile) homes are an important source of affordable housing to a growing segment of our population. The states' regulatory authority over the design and construction of such homes was federally preempted in 1974, yet the states have retained a vital interest and cooperative role in the federal regulation of these homes by the U.S. Department of Housing and Urban Development. A recently completed state sponsored study reviewed the strengths and weaknesses of the Federal Manufactured Housing Construction and Safety Standards Program and found the program wanting in a number of major aspects. The Congress and HUD should work cooperatively with the states and industry to improve the quality of manufactured housing. In such an effort, HUD should with the states to reaffirm and strengthen the vital regulatory and administrative roles which the states continue to provide under various aspects of the Federal Manufactured Housing Construction and Safety Standards Program.

- In December 1987, representatives from NCSBCS, the Manufactured Housing Institute, the National Manufactured Housing Federation, and the private third party agencies formed the Joint State/Industry Council on Manufactured Housing to review the final report's recommendations and to take cooperative action to implement those upon which they agreed. In October 1988, this council issued a report endorsing 11 of the 12 final recommendations.

- At the present time, there appears to be no serious interest in "defederalizing" this program, as was originally perceived in March 1987 when the task force released its report.

Recommendation #2

A uniform national state-based system must be established that promotes the adoption and enforcement of manufactured housing installation standards by state and local units of government. Such a system must also provide for the bonding and licensing of dealers and installers.

Actions

- In the spring of 1988, NCSBCS released an updated edition of the A225.1 standard on the installation of manufactured housing.

- In mid-1988, HUD authorized a major detailed study of the installation problems at the state and local levels. NCSBCS issued this study in February 1989.

- In September 1988 at the NCSBCS 21st Annual Conference, the delegates passed a resolution calling upon all states to adopt, administer, and enforce such installation regulations and standards.

- The NCSBCS State Task Force on the Federal Manufactured Housing Program has made the implementation of this recommendation its #1 priority over the next two years. In support of that action, the task force members have met several times with HUD officials to seek program and financial assistance in implementing this recommendation. Cooperative discussions also have been held with manufacturers and with dealers/installers of manufactured housing.

- The State Administrative Agencies (SAAs) expressed to HUD major concerns over problems associated with nonconforming homes on dealer lots from manufacturers which have gone bankrupt. Solutions to some of these concerns lie with the states, while others require both HUD and state cooperative action.

- In 1988, NCSBCS staff conducted training seminars on effective installation of manufactured housing.

Recommendation #3

The Federal Manufactured Housing Construction and Safety Standards must be immediately updated and kept current. Areas needing special attention are condensation, thermal protection, and structural requirements.

Actions

- Since the issuance of the final report, HUD has not updated its Federal Standards in these and in other critical areas. HUD has, however, "privatized" the Federal Standards by involving the Council of American Building Officials and the Manufactured Housing Institute. These two organizations have consensus groups preparing recommended technical updates to the Federal Standards. These updates will then be sent to HUD for a proposed rule change. In addition, HUD has contracted with the U.S. Department of Energy to develop cost-effective energy conservation standards.

- The states acting as SAAs, Design Approval Primary Inspection Agencies (DAPIAs), and Production Inspection Primary Inspection Agencies (IPIAs) in the federal program continue to report to HUD on significant weaknesses in the Federal Standards. Recently, HUD has begun holding cooperative discussions with these agencies and is asking for resolutions to the identified problems.

Recommendation #4

Quality control must be made "Job #1" by industry and by all third party agencies. In that regard, quality control and third party personnel should be tested and certified.

Actions

- Industry representatives are beginning to carry this theme to their members.

- States have found some segments of industry are improving quality while others clearly are not.

- The NCSBCS State Task Force on the Federal Manufactured Housing Program identified testing and certification as an issue for further discussion with HUD and with industry.

- Where appropriate, HUD increased its enforcement action against public and private IPIAs and DAPIAs, causing these participants to pay greater attention to their role in helping to assure that "quality is Job #1."

Recommendation #5

HUD must work with inspection agencies (both private and state) to improve their ability to adequately perform their duties in this program. HUD needs to take prompt enforcement actions.

Actions

- The NCSBCS State Task Force on the Federal Manufactured Housing Program asked HUD for a list of those states whose third party design or in-plant monitoring services (DAPIA and IPIA) require improvement. The task force agreed to provide manpower resources to help such states improve their performance.

- The states continued to report to HUD their concerns over private third party "conflicts of interest" described in the task force's final report. In 1987, HUD issued several regulatory directives to all third parties and published proposed rule change in the Federal Register to eliminate such conflicts.

- In 1988, HUD funded and NCSBCS conducted regional workshops on the Acceptable Quality Level (AQL) System.

- The AQL System was evaluated by HUD, and draft revisions are being made to the system.

- In 1987-88, HUD took more prompt enforcement action on public and private third party agencies. HUD's enforcement actions included removing some third party agencies from plants and collecting money settlements in negotiated agreements with some IPIAs and DAPIAs.

- The needed increase in the federal label fee (from $16 per floor to $24 per floor) was made effective in early 1989, and will help cover HUD costs in taking more effective enforcement actions was made effective in early 1989.

Recommendation #6

HUD should continue its recently initiated testing of manufactured housing components and follow-up on those components that fail.

Action

- HUD continues to fund and to take actions, where warranted, on testing housing components. The states have made informal suggestions to HUD with regard to the products and components needing such scrutiny.

Recommendation #7

The SAA (consumer complaint mechanism) Program needs and is receiving from HUD immediate attention. Greater communication and coordination between HUD and the states are necessary to make the program more effective. The states, for their part, need to fulfill their SAA responsibilities.

Actions

- In late 1987, HUD began providing the states with enhanced technical support for their consumer complaint services. The SAA Guidebook, which was last issued in 1978, was updated and issued to the states.

- In 1987-88, HUD held SAA workshops across the United States. These workshops focused, in part, on implementing various parts of this recommendation. More workshops are scheduled for 1989.

- In 1988, the NCSBCS State Task Force on the Federal Manufactured Housing Program made the support of this recommendation its #2 task for the next two years. Among support activities are the task force's offer to help the state SAAs evaluate and improve their programs, and to help the non-SAA states assume the SAA role. Since many states need to make improvements in their SAA programs, the task force approached HUD to work with the states in finding an appropriate funding mechanism to support the costs of bringing about needed changes.

- A subcommittee of the Joint State/Industry Council on Manufactured Housing is looking at recommending to HUD a new regulatory language in order to clarify current confusions over Subpart I and the "class action" aspects of the federal program.

- HUD's February 1989 increase in the labels fees offers both HUD and the states needed funds to make the SAA system function in accordance with the Housing and Community Development Act of 1974 and with subsequent federal regulations.

Recommendation #8

The states must live up to their responsibilities in the federal program.

Actions

- The NCSBCS State Task Force on the Federal Manufactured Housing Program transmitted to the nation's governors and state legislators copies of the task force's final report. Also, the task force asked for and has received reports from the states as to what specific actions they are taking to improve their respective SAA, IPIA, and/or DAPIA programs.

- The task force targeted this area as its reason to continue functioning. In addition, the task force identified areas needing special assistance and is seeking HUD's financial assistance to help fulfill that purpose. Among the activities being contemplated is an annual "state report card" which could go to the state governors.

Recommendation #9

HUD, the states, and industry must work cooperatively to make the consumer more aware of the importance of proper installation, adequate maintenance, and the benefits and responsibilities of the Federal Manufactured Housing Program.

Actions

- The December 1987 formation of the Joint State/Industry Council on Manufactured Housing was a major step in this direction. The second step was the council's release in October 1988 of a joint report endorsing 11 of the 12 recommendations. Until recently, HUD has been missing from this cooperative forum, as have consumers. Involvement by HUD and consumers should help expand the effectiveness of this body.

- In January 1989, NCSBCS wrote HUD seeking financial assistance in printing and circulating more copies of the MHI/FTC booklet, "How to Buy a Manufactured Home."

- The NCSBCS State Task Force on the Federal Manufactured Housing Program has identified greater consumer awareness or use/maintenance of manufactured housing as a major cooperative effort for industry, the states, and HUD.

Recommendation #10

HUD must improve its communication with Congress and enhance its Biannual Report to Congress on this program.

Action

- The NCSBCS State Task Force on the Federal Manufactured Housing Program has communicated this need directly to Congress and to HUD. It is anticipated that the next Biannual Report will contain more meaningful data and information on operation of the federal program.

Recommendation #11

Any effective coalition and working partnership of the manufactured housing industry; consumers; and federal, state, and local officials should evaluate and implement improvements to the Federal Manufactured Housing Program.

Action

- This is precisely the function that has been undertaken by the Joint State/Industry Council on Manufactured Housing, which has two task forces looking into various aspects of HUD's existing rules and regulations. Some of the recommendations may come forward in late 1989.

Recommendation #12

Congress should hold oversight hearings on the Federal Manufactured Housing Program.

Action

- In 1987 and 1988, the NCSBCS State Task Force on the Federal Manufactured Housing Program wrote to and met with appropriate members of the U.S. House of Representatives and U.S. Senate concerning the contents of the task force's final report. To date, Congress has not deemed it useful to hold such hearings.

Where Do We Go From Here?

Just as "Fulfilling the Public's Trust" closed by asking this question, so to does this update. Each of the responsible parties in the federal program, Congress, HUD, the states and their governors and legislatures, consumers, and suppliers should review this summary of recent actions and evaluate just what it has contributed towards its implementation. All of us have much to do to hold up our responsibilities in "Fulfilling the Public's Trust." For our part, the state task force has pledged to concentrate its resources on strengthening the ability of the state governments to fulfill their substantial responsibilities to the consumers of manufactured housing.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

APR 28 1989

Mr. Don A. Reville, Chairman
NCSBCS State Task Force on the Federal
Manufactured Housing Program
NCSBCS, Inc.
481 Carlisle Drive
Herndon, VA 22070

Dear Mr. Reville:

Thank you for your letter of April 6, 1989, to Secretary Kemp, forwarding your update on the progress made implementing the recommendations in the NCSBCS report "Fulfilling the Public's Trust." It has been referred to this Office for response.

As you know, our staff has thoroughly reviewed the recommendations in and your update on this report. We agree that while much has been accomplished, more needs to be done. The keys to future accomplishments are education and cooperative effort. HUD requested this report in an effort to become better educated on where the shortcomings were in the Federal program to better target our activities. Interestingly, while it helped direct HUD's mission, it also identified areas where the States and manufacturers needed to focus more attention. In short, it takes the cooperative efforts of all the segments of this industry to bring about appropriate and lasting change.

We at HUD want to thank you, Mary Beth Bowman, and the NCSBCS State Task Force for your efforts. We also will make every effort to cooperatively work toward resolutions of the problems identified. To that end, we will actively participate in the NCSBCS State Task Force whenever possible and look forward to our future cooperatively gained accomplishments.

Sincerely,

Stephen A. Martin
Acting Deputy Assistant Secretary
for Single Family Housing

STATE OF ALABAMA
GOVERNOR'S OFFICE
MONTGOMERY 36130

GUY HUNT
GOVERNOR

August 23, 1989

Mr. Don Reville
Chairman, NCSBCS State Task Force on
Federal Manufactured Housing Program
NSCBCS
481 Carlisle Drive
Herndon, VA 22070

Dear Mr. Reville:

I appreciate your July 31, 1989, letter bringing us up to date on the work being performed by your Task Force and advising us of the upcoming report on the recommended improvements which need to be implemented in order to protect consumers. I look forward to receiving this information and reviewing it with the appropriate state agencies and personnel in the near future.

This administration is in agreement with your assessment that manufactured housing has a significant and ever increasing part to play in meeting the State of Alabama and the nation's affordable housing needs. Consumers everywhere need adequate protection of safety, health, general welfare, and morals and the adoption and enforcement of necessary standards helps promote the public's best interests.

You can count on us for further support and we look forward to receipt of your report.

Sincerely,

Guy Hunt

Guy Hunt
Governor

GH:cc

cc: Alabama Manufactured Housing Commission

Enclosure

GOVERNOR WALLACE G. WILKINSON
CAPITOL
FRANKFORT, KENTUCKY 40601

August 22, 1989

Mr. Don A. Reville
Chairman
NCSBCS State Task Force on the
Federal Manufactured Housing Program
481 Carlisle Drive
Herndon, Virginia 22070

Dear Mr. Reville:

Thank you for sending me the updated report, "Fulfilling the Public's Trust--Two Years Later." I am very pleased to learn of the establishment of the Joint State/Industry Council on Manufactured Housing, increased communication with HUD and other states, and other progress.

Although we, in Kentucky, have always been extremely conscious of consumer protection, we are now working to strengthen our complaint response program. To accomplish this, on June 8, 1989, Kentucky's Mobile Home Certification and Licensure Board passed new regulations that will strengthen our consumer protection program. Also, we have seriously begun the process of considering uniform installation standards and adoption of NCSBCS A225.1, Manufactured Home Installation Standard.

In closing, thank you for keeping me up to date on program developments and I look forward to receiving your final report.

Sincerely,

Wallace G. Wilkinson

WGW/GF

cc: Commissioner Charles Cotton
Department of Housing, Buildings and Construction

State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS

THOMAS H. KEAN
GOVERNOR

LOCATION:
WILLIAM ASHBY COMMUNITY AFFAIRS BUILDING
101 SOUTH BROAD STREET
TRENTON, NEW JERSEY

ANTHONY M. VILLANE, JR., D.D.S.
COMMISSIONER

MAILING ADDRESS:
CN 800
TRENTON, N. J. 08625-0800

September 6, 1989

Mr. Don A. Reville
Chairman, NCSBCS State Task Force
on the Federal Manufactured Housing Program
481 Carlisle Drive
Herndon, Virginia 22070

Dear Mr. Reville:

Your letter to Governor Thomas H. Kean has been referred to this Department for reply.

We are pleased with the NCSBCS State Task Force accomplishments, as detailed in your letter and the accompanying report, to further improve the quality of manufactured housing.

With reference to Recommendation #7 in the report, New Jersey is certainly interested in refining our consumer complaint procedures under the federal manufactured housing program. We welcome any and all enhancements to the quality of the manufactured housing program and await the NCSBCS State Task Force up-date report on critical improvements which need to be made to protect our consumers.

Sincerely,

Anthony M. Villane Jr.

Anthony M. Villane, Jr. D.D.S.
Commissioner

NEW JERSEY IS AN EQUAL OPPORTUNITY EMPLOYER

STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

GERALD C. CROTTY
SECRETARY TO THE GOVERNOR

August 29, 1989

Dear Mr. Reville:

Governor Cuomo received your letter and the associated NCSBCS State Task Force report on the Federal Manufactured Housing Program, "Fulfilling the Public's Trust," which outlines the Task Force's objectives to improve the Federal Manufactured Housing Program.

In regard to the Task Force's two main priorities: improving the State Administrative Agency (SAA) system and State Adoption and Enforcement of Adequate Installation Standards, I am informed that the State Division of Housing and Community Renewal (the New York State SAA), is in full accord with your aims and has taken the necessary steps to implement them.

Specifically, the Division arranged to send two of its staff to the HUD-sponsored SAA workshop last June. The information exchanged was highly informative and enabled our SAA staff to improve our procedures toward resolving complaints.

Additionally, the Division is reviewing the updated Mobile Home Installation Standard (ANSI/NCSBCS Standard A225.1-1987) with a view toward incorporating the standard into the State Uniform Fire Prevention and Building Code.

Thank you for keeping us apprised of the activities in which the Task Force is engaged.

Sincerely,

Mr. Don A. Reville, Chairman
NCSBCS State Task Force on the Federal
  Manufactured Housing Program
481 Carlisle Drive
Herndon, Virginia 22070

NATIONAL
GOVERNORS'
ASSOCIATION

Terry E. Branstad
Governor of Iowa
Chairman

Booth Gardner
Governor of Washington
Vice Chairman

Raymond C. Scheppach
Executive Director

Hall of the States
444 North Capitol Street
Washington, D.C. 20001-1572
Telephone (202) 624-5300

May 7, 1990

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance and
  Urban Affairs
U.S. House of Representatives
Room 2413 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to express the concerns of the National Governors' Association in regard to an amendment to H.R. 1180 proposed by Representative John Hiler. The proposed amendment to Title VI of the 1974 Housing and Community Development Act would significantly revise government regulation of manufactured housing.

States are willing to consider changes to the program and have been working cooperatively with the manufactured housing industry through the National Conference on State Building Codes and Standards (NCS/BCS). This organization is composed of Governors' appointees and has been actively involved in promoting and regulating the manufactured housing industry. In 1987 NCS/BCS published a report on the Manufactured Housing Construction Safety Standards Program, "Fulfilling the Public's Trust." A joint council subsequently was formed between industry and NCS/BCS that eventually supported eleven of NCS/BCS' twelve recommendations.

Your scheduled hearings on this issue are an important step toward further cooperative program improvements. NCS/BCS had arranged for representatives of eight states to take part in your recently postponed May 23rd hearing. There is no need to adopt a solution prematurely, especially because the substance of the Hiler amendment was reviewed at a meeting of state regulatory officials from twenty-one states in January and unanimously opposed.

Our state officials have demonstrated a willingness to work cooperatively with industry. NGA urges you to delay consideration of the Hiler proposal until hearings can permit states to discuss their concerns.

Sincerely,

Raymond C. Scheppach

National Governors' Association

Policy Positions

1988-89

NATIONAL
GOVERNORS
ASSOCIATION

Deficit Reduction Act of 1984, and the Tax Reform Act of 1986 placed significant restrictions on the program, and there is no need to further restrict the program. Congress must eliminate the provision that "sunsets" the Mortgage Revenue Bond Program on December 31, 1988. The Mortgage Credit Certificate Program, newly authorized by the 1984 act, should remain an optional alternative to, not a mandat[illegible]placement for, the states' use of mortgage revenue bonds. Consideration should be given to utilizing existing public and private programs to operate in tandem with mortgage revenue bonds to reduce home ownership costs for target populations.

In many jurisdictions, the construction of rental housing other than luxury dwellings is economically infeasible without tax-exempt financing. Therefore, Congress should continue to permit state housing finance agencies to issue tax-exempt multifamily housing industrial development bonds. To further reduce finance costs and thus promote affordability for low- and moderate-income tenants, federal guarantees should continue to be available in tandem with tax-exempt bonds for housing.

Federal housing policies should recognize the special needs of rural areas, and the federal commitment to rural housing should remain intact. The Farmers Home Administration should encourage joint federal/state initiatives to develop affordable rural housing.

An explicit federal strategy to avert housing abandonment should be developed. The most effective strategies are likely to be those that combine and target the resources of both federal and state government. Existing federal programs therefore should provide states with flexibility to target them to buildings threatened with abandonment or acquired by government as a result of foreclosure. Expansion of the urban homesteading program and provision to set aside Section 8 units for this purpose should be given priority consideration in developing an overall approach to the problem of abandonment.

Private pension funds, which are federally regulated pursuant to the Employee Retirement Income Security Act, hold approximately $700 billion in assets. Historically, only a small percentage of those assets have been invested in housing. The federal government should carefully consider whether there are any unnecessary regulatory barriers to pension fund investments in residential mortgages.

Manufactured (mobile) homes are an important source of affordable housing to a growing segment of our population. The states' regulatory authority over the design and construction of such homes was federally preempted in 1974, yet the states have retained a vital interest and cooperative role in the federal regulation of these homes by the U.S. Department of Housing and Urban Development. A recently completed state sponsored study reviewed the strengths and weaknesses of the federal manufactured housing construction and safety standards program and found the program wanting in a number of major aspects. The U.S. Congress and HUD should work cooperatively with the states and industry to improve the quality of manufactured housing. In such an effort, HUD should continue to work with the states to reaffirm and strengthen the vital regulatory and administrative roles which the states continue to provide under various aspects of the federal manufactured housing construction and safety standards program.

4.3.3 **State Actions Suggested.** Forty-nine states have established housing finance agencies that use tax-exempt revenue bonds to meet the home ownership and rental housing needs of low- and moderate-income residents. States are also responsible for overseeing the issuance of mortgage revenue bonds by local units of government and for ensuring that these programs conform with legitimate public purposes. States should continue to assure that this indirect federal subsidy is used in a responsible and effective manner to fill gaps in the private mortgage market. States also should encourage their housing finance agencies to explore and evaluate the uses of the newly authorized Mortgage Credit Certificate Program and the Low-income Rental Housing Tax Credit.

While federal programs play a significant role in stimulating new condominium construction, regulation of conversion and protection of tenants' interests can be addressed most effectively in response to particular market characteristics at the state and local level. The loss of rental units and displacement of tenants due to condominium conversions are phenomena best regulated at the state level.

As state and local public employee pension funds grow in importance in national capital markets, they are increasingly able to play an important role in housing finance. States should consider using their pension funds to provide mortgages to public employees, shared-equity programs to lower initial down payments in return for a share of eventual capital gains, and direct provision of loans for single-family housing.

Joint State/Industry Council
On Manufactured Housing

Manufactured Housing Institute

National Conference of States
on Building Codes and Standards, Inc.

June 16, 1989

The Honorable Jack F. Kemp
Secretary
Department of Housing and Urban
Development, Room 10000
451 Seventh Street, S.W.
Washington, D.C. 20410

Dear Secretary Kemp:

The Joint State/Industry Council on Manufactured Housing was formed in 1987 to assure the continued availability of safe and affordable housing in the United States, through the cooperative efforts of the states and industry. On October 5, 1988 the council presented to then Secretary Sam Pierce its first consensus report on the Federal Manufactured Housing Program.

The council urged the Department not to return the nation to the non-regulatory system as it existed before the 1976 onset of federal preemption. It said, "The states and industry wish to work with the Department within the current system to correct its deficiencies and raise it to the function as it was originally intended by Congress and the President." Since that initial report, the council has focused on the Federal Manufactured Home Procedural and Enforcement Regulations.

At its April 9, 1989 meeting, the council approved the attached proposed revisions on the Manufactured Home Procedural and Enforcement Regulations (enclosure 1), and authorized the Secretariat to forward them to you in its behalf. The recommendations include twelve proposed changes to 24 CFR 3282 and one recommendation which will require legislative action to revise the definition of manufactured home (42 USC 5402(6)). The council urges you to move to rulemaking on these proposed revisions and undertake those actions required to revise the definition of "manufactured home."

We have also included the council's first consensus report, transmitted to the Department on October 5, 1988. We urge you to review these broad recommendations and revisit the Department's stated position on each issue. As you said at your Senate confirmation hearings, you plan to look at how the Department might enhance opportunities for using manufactured housing in your current programs. In addition, you indicated a desire to evaluate how the Department's regulatory program for manufactured housing is working.

Secretariat • 1745 Jefferson Davis Highway, Suite 511 • Arlington, VA 22202 • Tele: (703) 979-6620

The state delegates and members of industry reaffirm a willingness to work HUD in an era of expanded cooperation and communication to improve the current manufactured home program. The council will continue in its evaluation of the program and from time to time will make additional recommendations for further revisions to the regulations and the enabling legislation.

Sincerely yours,

Jerry C. Connors
Secretary

JCC:re

Enclosures (2)

JOINT STATE/INDUSTRY COUNCIL ON MANUFACTURED HOUSING

1745 Jefferson Davis Highway, Suite 511
Arlington, Virginia 22202

October 5, 1988

The Honorable Samuel R. Pierce, Jr.
Secretary
Department of Housing and
Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Dear Mr. Secretary:

Responding to your department's recent initiatives related to the Federal Manufactured Housing Program, a year ago the governor-appointed delegates of the National Conference of States on Building Codes and Standards, Inc., and the Board of Directors of the Manufactured Housing Institute formed the Joint State/Industry Council on Manufactured Housing. The stated purpose of the council is to assure the continued availability of safe and affordable housing in the United States by working cooperatively as states and industry. During the past year, the council reviewed the 1987 final report of the NCSBCS State Task Force on the Federal Manufactured Housing Program and generally supports 11 of the 12 recommendations. In addition, it has formulated recommendations pertaining to the future regulatory system for manufactured housing, as well as enhancement of the manufactured housing industry.

We are pleased to present our first consensus report on the Federal Manufactured Housing Program. We urge the department to not return the nation to the non-uniform regulatory system as it existed before the federal preemption. Rather, the states and industry wish to work with the department within the current system to correct its deficiencies and raise it to the function as it was originally intended by Congress and the President.

During the past four years, the department has emphasized a "level playing field" in program enforcement. In that regard, our council has undertaken a review of the Federal Manufactured Home Procedural and Enforcement Regulations. In the near future, we will forward you a number of recommended revisions to those regulations.

By these initiatives, the state delegates and members of industry wish to begin with HUD an era of renewed cooperation, communication and partnership to improve the current system. We seek your support in these endeavors. Through our free market system, manufactured housing will realize its potential for the betterment of all Americans who aspire to own quality, affordable single-family housing.

Sincerely yours,

Glenn F. Kummer

Glenn F. Kummer
Chairman, Board of Directors
Manufactured Housing Institute

Mary Beth Bowman

Mary Beth Bowman
President
National Conference of
States on Building Codes
and Standards, Inc.

Enclosure

JOINT STATE/INDUSTRY COUNCIL ON MANUFACTURED HOUSING
1745 Jefferson Davis Highway, Suite 511
Arlington, Virginia 22202

CONSENSUS REPORT

Joint Council Views on the Recommendations of the NCSBCS State Task Force on the Federal Manufactured Housing Program.

October 5, 1988

Joint State/Industry Council on Manufactured Housing Consensus Report Regarding the Twelve NCSBCS Recommendations:

On October 16, 1987, a group of NCSBCS state representatives joined members of the Manufactured Housing Institute to form the Joint State/Industry Council on Manufactured Housing. The council's stated purpose is to assure the continued availability of safe and affordable housing in the United States by working cooperatively as states and industry to:

1. Review, discuss and propose a plan of implementation of appropriate recommendations contained in the final report "Fulfilling the Public's Trust" of the NCSBCS State Task Force on the Federal Manufactured Housing Program.[1]

2. Review, discuss and make recommendations pertaining to the future regulatory system for manufactured housing and enhancement of the manufactured housing industry.

Subsequently, the council held four meetings between December 1987 and September 1988. Its current membership is at enclosure 2.

The council has reviewed and discussed the 12 NCSBCS state task force recommendations and presents the following compendium of views on each issue.

Recommendation #1

NCSBCS: Do not return the nation to the non-uniform regulatory system as it existed before federal preemption--rather work with the current system to correct its deficiencies and raise it to function as it was originally intended.

JOINT COUNCIL: The council agrees that HUD should not return the nation to the non-uniform regulatory system as it existed before federal preemption--rather work with the current system to correct its deficiences and raise it to function as it was originally intended. The department should focus on several deficiences outlined below, and to the maximum extent feasible, provide even-handed enforcement of all program participants, including manufacturers, retailers, primary inspection agencies, and state administrative agencies. The department should implement changes to the Manufactured Home Procedural and Enforcement Regulations as proposed by the joint council.

---

[1] On March 12, 1987 the NCSBCS State Task Force on the Federal Manufactured Housing Program released its final report after 18 months of work. The executive summary is at enclosure 1. Included are 12 major recommendations offered by the task force to streamline and improve the program.

JOINT COUNCIL: HUD must work with primary inspection agencies (PIA), both private and state, to improve their ability to adequately perform their duties in this program. HUD needs to take prompt enforcement actions, to ensure even enforcement of the work of all PIA. HUD should work more closely with the third party agencies, and not rely solely on the auditing by the monitoring contractor.

Recommendation #6

NCSBCS: HUD should continue its recently initiated testing of manufactured housing components and follow-up on those components that fail.

JOINT COUNCIL: As an alternative to the procedure currently followed by HUD to test manufactured home components, the department should monitor independent laboratories certified testing. HUD should publish and use consistent protocols that reflect generally accepted engineering practice, and should also employ independent testing agencies. When deficiences are discovered, enforcement actions should be prospective except for deficiences found to be life threatening.

Recommendation #7

NCSBCS: The SAA (consumer complaint mechanism) Program needs and is receiving from HUD immediate attention. Greater communication and coordination between HUD and the states are necessary to make the program more effective. The states, for their part, need to fulfill their SAA responsibilities.

JOINT COUNCIL: The SAA (consumer complaint mechanism) Program needs and is receiving from HUD immediate attention. Greater communication and coordination between HUD and the states are necessary to make the program more effective. The states, for their part, need to fulfill their SAA responsibilities.

Recommendation #8

NCSBCS: The states must live up to all their responsibilities in the federal program.

JOINT COUNCIL: The states should perform all their responsibilities in the federal program. The key is performance in accordance with their HUD accepted state plans.

ROSE MOFFORD
GOVERNOR

DON A. REVILLE
DIRECTOR

DEPARTMENT OF BUILDING AND FIRE SAFETY
701 EAST JEFFERSON, SUITE 200
PHOENIX, ARIZONA 85034
(602) 255-4072

PIMA COUNTY
2675 EAST BROADWAY, SUITE 103
TUCSON, ARIZONA 85716
(602) 795-3574

MOHAVE COUNTY
2500 FRONTAGE ROAD, SUITE #5
BULLHEAD CITY, ARIZONA 86442
(602) 763-8888

OFFICE OF ADMINISTRATION • OFFICE OF MANUFACTURED HOUSING • OFFICE OF STATE FIRE MARSHAL

MEMORANDUM

TO: SUBCOMMITTEE ON HOUSING & COMMUNITY DEVELOPMENT

FROM: DON A. REVILLE, CHAIRMAN, STATE TASK FORCE DAR

DATE: MAY 21, 1990

SUBJECT: STATES I HAVE CONTACTED REGARDING REPRESENTATIVE HILER'S AMENDMENT TO TITLE VI

STATE	ADMINISTRATOR
ALABAMA	PHILLIP SHARPE
ARKANSAS	MARY BETH BOWMAN
CALIFORNIA	DAN RIVERS
COLORADO	JOHN MALDONADO
CONNECTICUT	DON VIGNEAU
FLORIDA	BUCK JONES
IDAHO	GARY GOULD
ILLINOIS	PAT METZ
INDIANA	BILL FRANKLIN
KENTUCKY	CHARLES COTTON
LOUISIANA	D. JEFFREY GLEASON
MAINE	DAVE PREBLE
MASSACHUSETTS	CHARLES DINEZIO
MINNESOTA	DICK BROOKS
MISSOURI	JIM PHILLIPS
NEBRASKA	MARK LUTTICK
NEVADA	JOAN CLEMENTS
NEW JERSEY	WILLIAM CONNOLLY
NEW MEXICO	FRED NEVAREZ
NEW YORK	MAURICE HONG
NORTH CAROLINA	OWEN THARRINGTON
PENNSYLVANIA	JACK BLAIR
SOUTH CAROLINA	RICK HOWELL
TENNESSEE	DAVID BORUM
TEXAS	HARRY CHRISTENSEN
VIRGINIA	CURTIS MCIVER
WASHINGTON	MIMI CURRY

DAR/sk

ROSE MOFFORD
GOVERNOR

DON A. REVILLE
DIRECTOR

DEPARTMENT OF BUILDING AND FIRE SAFETY
701 EAST JEFFERSON, SUITE 200
PHOENIX, ARIZONA 85034
(602) 255-4072

PIMA COUNTY
2875 EAST BROADWAY, SUITE 105
TUCSON, ARIZONA 85716
(602) [illegible]

MOHAVE COUNTY
[illegible] FRONTAGE ROAD, SUITE [illegible]
BULLHEAD CITY, ARIZONA 86442
(602) [illegible]

OFFICE OF ADMINISTRATION • OFFICE OF MANUFACTURED HOUSING • OFFICE OF STATE FIRE MARSHAL

May 16, 1990
DOC #90-100

The Honorable John Hiler
United States Representative
407 Cannon House Office Building
Washington, D.C. 20515

Dear Representative Hiler:

I am sorry we, Ms. Mary Beth Bowman of Arkansas and myself, representing the states, were not able to meet with you during our visit to your office on Tuesday, May 8, 1990. Mr. Smoots requested that we convey the states' concerns in writing regarding your proposed amendments to Title VI, The National Manufactured Home Construction and Safety Standards Act of 1974.

The following is a capsule version of states' comments, reflecting a sincere concern for what is proposed, including recommendations for further amendments.

Section 602

A. The word "quality" has been omitted, and must be retained since it describes the caliber of the home constructed, and is recognized in national building codes.

B. The retention of "reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from manufactured home accidents and to improve the quality and durability of manufactured home" should be strongly considered. Progress in these areas is recognized, but the purpose of the Act should continue to recognize these problems as the basis for the statutes that follow.

C. The use of the word "modernize" is a misnomer. The actual purpose for amending must be the "maintenance and updating" of the Act with the substitute language recommended.

Section 603

A. "Quality" should be retained, in the definition of manufactured home construction, for the same reason mentioned in 602.A.

B. "Defect" and its definition must be retained. The deletion of this word reflects an attempt to substantially reduce consumer protection, and is contradictory to the original intent of the Act.

C. The definition for "durable" should be amended to read "means the capability of a manufactured home, once occupied, to remain fit for ordinary use for which it was intended over a specified period of time, based on an ordinary level of occupant use and maintenance." This provides a more precise statement, and would use language found in the definition for "defect."

D. Paragraph (6) should be amended to establish HUD responsibility, beginning at 400 sq. ft., which is agreeable to all factions of industry (including RVIA), states and consumers.

In the same paragraph "permanent chassis" should be retained, since it is a primary distinguishing characteristic of this form of factory-built housing.

E. Paragraph (7) should be retained, with the possiblity of adding "affordability."

F. Paragraph (8) should be maintained with current language. This attempt in reducing consumer protection, and liability of accidents relating to design and construction errors, is poor public policy.

G. The addition of paragraph (13) is unacceptable. Since this Act is preemptive, it will require states who are the sole regulators of this product to use the Federal definition. This Act should confine itself to manufactured homes, and continue to allow the states to define and regulate recreational vehicles as is the situation currently.

Section 604

A. The proposed amendment to paragraph (a) should be amended to read as follows: "The Secretary shall establish by order appropriate Federal manufactured home construction and safety standards that shall be reasonable, practical, stated in objective terms, and meet the purpose of this Act for provision of safe, quality, durable, and affordable manufactured homes. The Secretary shall, to the maximum extent feasible, in consultation with the states and industry facilitate the development of private standards writing organizations, and consider the recommendations of such groups in establishing the standards." The delegation of standard making authority is not appropriate, and must be retained by the Secretary. A question also exists regarding the use of "durability" in this subsection, since it could have a major impact on states providing assistance to consumers. A number of states have taken a broader definition than the one appearing in this statute. Currently this language would reduce the states' ability to assist consumers should this word remain.

B. Current language in paragraph (d) should be retained. This proposed language change would negatively impact state consumer protection statutes.

C. The proposed new language in (F.4.), placing emphasis on initial acquisition cost, should be stricken. This is again an attempt to lessen the construction standard by having the purchase cost become the major determinant on any standard to be established.

D. The new paragraph (F.6.) should add the word "quality." This word is essential, and should be included where appropriate. This was discussed in 602.A.

Section 605

The amendment of paragraph (b) that reads "or any enforcement procedure relating to any such standard" should be stricken. Enforcement and procedures relating to enforcement should remain at the discretion of the Secretary and HUD, and not an "Advisory Council."

Section 608

The amendments proposed in this section will substantially limit the Secretary's authority to certain types of training, testing and research. These restrictions are not in the best interest of the program, consumers or those who administer this program.

Current language should be retained with the following amendment to paragraph (a), section (1) after the word" characteristics" add "including affordability, safety and durability of homes" and then continue with the balance of the original language. This provides certain limitations and recognizes affordability.

Section 610

The proposed amendment to this section is protection for manufacturers, at the expense of consumers, and should be eliminated. Consumers with defective homes would not be notified of the defect, thereby eliminating their or the manufacturer's taking corrective action. Current language should be retained.

Section 612

The amendment would eliminate jurisdiction of Federal district courts to adjudicate suits emanating from the sale of defective homes to consumers, which is not in the public interest. Amendments should be deleted.

Section 613

A. The amendment of section (a) with the following language, "such that the home or any part thereof is rendered uninhabitable" along with the striking of "defect" are unacceptable. The proposed change substantially reduces the manufacturers' liability to consumers for repurchase of a home or to provide installation of parts when a defect exists.

B. The amendment of paragraph (a)(2) and the new language should be further amended by striking after equipment "through home" followed by a comma and inserting "on or in such manufactured homes." This would return responsiblity of a manufacturer to furnish necessary correcting parts when a home does not conform to the Federal standards.

Section 614

The proposed amendments to this section will have a substantial impact on HUD's ability to monitor IPIA's and DAPIA's. Oversight of inspection is a key in product acceptance when it is moved from state to state, and even from one location to another within the same state. Industry's concerns are recognized by HUD, and relief can and is being achieved through changes in administrative procedures and regulation changes. Current language is necessary for effective regulatory review, and must be retained.

Section 615

The amendment to this entire section is directed at weakening the weakest provisions within this statute, and is the area that consumers must rely on. Comments from the states all point at this section, and are unanimous in their rejection and desire for strengthening. All concerned and responsible indviduals recognize the impact of this amendment and the negative statement it makes. Yes, this section needs amending, but change should combine not only relief for manufacturers, but assistance to consumers. Defective homes whose anticipated life has been reduced due to the defect should have recourse.

Section 616

There is a great deal of concern among states regarding the inclusion of a warranty and its impact on current state assistance programs. Additionally, the new language in section 604, because these statutes are preemptive, eliminates the states' authority to determine and define "durability." Since manufacturers currently provide warranties most states feel it is unnecessary, and quite possibly a "Trojan Horse."

Section 620

Fees charged cannot be deemed excessive, and are certainly in line with other forms of home construction. This amendment would reduce program supporting revenues, and then substantially limit how those funds might

Section 620 - (cont'd)

be expended. The proposed amendment is not acceptable, and the following is recommended as substitute language which clearly gives the Secretary authority to provide training and engage in testing and research.

"In carrying out the inspections required under this title, the Secretary may establish and impose on manufactured home manufacturers and retailers such reasonable fees as may be necessary to offset the expenses incurred by him in conducting such inspections, research, testing and training, and the Secretary may use any fees so collected to pay such expenses incurred in connection with such inspections, research, testing and training, except that this section shall not apply in any State which has in effect a State plan under section 623. (12 U.S.C. 5419)"

Section 626

A. The new language in subsection (a) should be expanded to include "durability, quality" after the word "affordability."

B. The new language in subsection (b) should be expanded to include "safe, durable" after "availability of:" These additions to the amending language will give Congress a more complete and comprehensive view of this program.

Concluding Comments

In addition to the states' opinions on your amendments, there are a number of issues we feel should be adressed.

1. That language should be inserted, possibly in Section 623, requiring states to establish and enforce a minimum installation standard. Manufacturers have vociferously indicated that the lack of a standard creates numerous and expensive problems.

2. Monies paid by industry to support the manufactured home program are siphoned into different HUD programs. These funds should be maintained separately, their use limited to this program, and an accounting of their disposition should be made to Congress as a part of their bi-annual report.

3. Congress should strongly consider returning the manufactured home program back to the States.

We, the states, strongly urge you to set aside your amendments, as we suggested to Mr. Smoots, and allow all parties (industry, states and consumers) to resolve the issues and prepare compromise consensus legislation.

Should you choose not to accept the above suggestion, it is the states' sincere desire that the amendments currently before committee may be substantially modified, so that the interests of consumers and the states are not jeopardized--but improved.

Should you have any questions, or if I or any of the states may be of assistance, please contact me.

Sincerely,

Don A. Reville

Don A. Reville, Director
DEPARTMENT OF BUILDING AND FIRE SAFETY
State of Arizona
and
Chairman, State Task Force on the
 Manufactured Housing Program

DAR:jd

cc: Rep. Henry Gonzalez
 Governor Rose Mofford

BACKGROUND PAPER

THE PERMANENT CHASSIS & FACTORY-BUILT HOUSING

There are basically two types of factory-built housing in the United States -- manufactured homes (previously known as mobile homes), and modular housing. Manufactured homes are distinguishable from modular homes in two distinct ways:

1. Manufactured homes are built on a permanent chassis.
2. Manufactured homes are built to conform to the Federal Manufactured Home Construction and Safety Standards. This construction and safety code and its associated enforcement system were established by the Department of Housing and Urban Development (HUD).

Modular homes are not built on a permanent chassis, and they are built to conform only to the codes established by states and/or local governments. Each state also establishes its own enforcement system. (Thirty-six states currently regulate industrialized modular buildings. Attached are examples of the different state definitions of both manufactured and industrialized/modular housing.)

Manufactured homes require a permanent chassis because they are designed to be readily relocated. (It is this unique requirement that has led to the development of separate standards.) To be relocatable, manufactured homes must be flexible. Modular homes are also factory built, but are then moved once, to the site where they are to be permanently located; they therefore can be more rigid structurally. Manufactured homes frequently cross state lines, necessitating a nationwide uniform enforcement system to protect consumers and to simplify and clarify regulatory requirements for manufacturers, dealers, and homeowners.

If the requirement of a permanent chassis is removed from the definition of manufactured homes, the most important technical and legal distinction between modular and manufactured homes has been removed, calling into question previously-stated Congressional intent of legally pre-empting states for only those structures that are capable of frequent relocation across state lines. Maintaining two separate codes, for manufactured and modular homes, is then open to question. What is the purpose of two separate codes for factory-built residential dwellings when the transportability of a permanent chassis is no longer recognized as the key difference between the two? Congress should ask itself if it intends to pre-empt the states where all factory-built housing is concerned and to then develop one national code and enforcement system for everyone. If that is to be the "new" Congressional intent, Congress should solicit the views of modular manufacturers as well as consumers of modular housing in the states that would be pre-empted. These hearings should be held separately, and should not be combined with the legislative process of updating Title VI of the 1974 Act, which was intended for manufactured homes alone.

In the area of industrialized buildings, the states, in cooperation with industry, have been working to reduce regulatory barriers by developing an interstate reciprocity system. Many state legislatures are moving to pass legislation that furthers this objective. The states of Minnesota and Rhode Island have already done so, and if one additional state joins their ranks, the interstate compact will be in place.

The states believe that Congress does not want to pre-empt them in an area where they are effectively carrying out their responsibilities. The states also believe that if Congress wishes to revisit the whole issue of federal pre-emption, then it should hold back-to-back hearings, inviting interested parties from both the manufactured home industry as well as the modular industry.

The states take the above position not as a means of blocking future growth and development of the nation's manufactured housing industry, which they actively support, but as a means of calling Congressional attention to the impact that the proposed change in the language of HR5157 would have on existing state law.

Attachment 1

CHAPTER XXI—PRE-FABRICATED CONSTRUCTION AND MANUFACTURED BUILDINGS

(See General Statutes 143-139.1)

SECTION 2101—GENERAL

2101.1—SCOPE

The requirements of this code including Volume I-General Construction, Volume II-Plumbing, Volume III-Heating and Volume IV-Electrical shall apply to all buildings of pre-fabricated construction and manufactured buildings with the exception of mobile homes and dwellings. Title VI of the Mobile Home Construction and Safety Standards of the Housing and Community Development Act of 1974 requires all mobile homes constructed after April 15, 1976 to comply with Mobile Home and Construction Safety Standards issued by HUD. Dwellings of pre-fabricated construction and manufactured dwellings shall comply with the "N. C. Uniform Residential Building Code" or the "One and Two Family Dwelling Code" developed by Building Officials Conference of America, Southern Building Code Congress and International Conference of Building Officials.

2101.2—DEFINITIONS

(1) "BUILDING COMPONENT" means any subsystem, subassembly, or other system designed for use in or as part of a structure, which may include structural, electrical, mechanical, plumbing and fire protection systems and other systems affecting health and safety and is usually of "closed construction".

(2) "BUILDING SYSTEM" means plans, specifications and documentation for a system of manufactured buildings or for a type or a system of building components, which may include structural, electrical, mechanical, plumbing and fire protection systems and other systems affecting health and safety, including variations which are submitted as part of the building system.

(3) "CLOSED CONSTRUCTION" means any building, building component, assembly or system manufactured in such a manner that all concealed parts or processes of manufacture cannot be inspected before installation at the building site without disassembly, damage or destruction.

(4) "COMPLIANCE ASSURANCE PROGRAM" means the system, documentation and methods for assuring that manufactured buildings and building components including their manufacture, storage, transportation, assembly, handling and installation conform with this Code and the rules and regulations promulgated pursuant thereto.

(5) "DWELLING" means a building occupied exclusively for residence purposes and having (1) One dwelling unit; or (2) two dwelling units; or (3) one dwelling unit with not more than five boarders or roomers served with meals or sleeping accommodations or both.

(6) "EVALUATION AND INSPECTION AGENCY" means an approved person or organization, private or public, including a governmental agency, determined by the N. C. Building Code Council to be qualified by reason of facilities, personnel, experience and demonstrated reliability and independence of judgment, to investigate, evaluate and approve building systems and conduct or supervise compliance assurance programs and to issue labels.

(7) "INDEPENDENCE OF JUDGMENT" means not being affiliated with or influenced or controlled by building manufacturers or by producers, suppliers or vendors of products or equipment used in manufactured buildings, pre-fabricated construction and building components which might affect capacity to render reports and findings objectively and without bias.

North Carolina

(8) "INSTALLATION" means the process of affixing, or assembling and affixing, manufactured buildings, pre-fabricated construction or building components on the building site, or to an existing building.

(9) "LABEL" means an approved device or seal evidencing certification in accordance with this Code and the rules and regulations promulgated pursuant thereto.

(10) "LOCAL ENFORCEMENT AGENCY" means the agency or agencies of local government with authority to make inspections of buildings and to enforce the laws, ordinances and regulations enacted by the State and by the local government which establish standards and requirements applicable to the construction, alteration, repair, occupancy or demolition of buildings.

(11) "LOCAL GOVERNMENT" means any county, city, municipal corporation, town or other political subdivision of this State with authority to establish standards and requirements applicable to the construction, alteration, repair, occupancy or demolition of buildings.

(12) "MANUFACTURED BUILDING" means any building which is of "closed construction" and which is made or assembled in manufacturing facilities, on or off the building site, for installation or assembly and installation, on the building site. "Manufactured Building" also means any building of open construction for which certification under this Code is sought by the manufacturer and which is made or assembled in manufacturing facilities away from the building site for installation, or assembly and installation, on the building site. "Manufactured building" does not mean "mobile home."

(13) "MOBILE HOME" means a factory-assembled, movable dwelling designed and constructed to be towed on its own chassis, comprised of frame and wheels, to be used without a permanent foundation and distinguishable from other types of dwellings in that the standards to which it is built include provisions for its mobility on that chassis as a vehicle.

(14) "OPEN CONSTRUCTION" means any building, building component, assembly, or system manufactured in such a manner that all portions can be readily inspected at the building site without disassembly, damage or destruction.

(15) "PREFABRICATED CONSTRUCTION" means construction of prefabricated units of "open construction" which are fabricated prior to erection or installation in a building or structure and may be shipped to their final on site location either as individual prefabricated units or prefabricated subassemblies.

(16) "PREFABRICATED SUBASSEMBLY" means a built up combination of more than one structural element designed and fabricated as an assembled section of the building or structure which is of "open construction" and is to be incorporated into the structure by field erection of two or more such assemblies.

(17) "PREFABRICATED UNIT" means an individual element of the building or structure of "open construction" such as a beam, girder, plank, strut, column or truss the integrated parts of which are prefabricated prior to incorporation into the structure, including the necessary means for erection and connection at the site.

SECTION 2102—LOADS

Live, dead and wind load requirements shall conform to requirements set forth in Chapter XII.

South Carolina

applicable to the construction, installation, alteration, and repair of buildings.

(20) "Manufacturer" means any person, firm, or corporation which manufactures or assembles modular buildings.

(21) "Manufacturer's representative" means any person who sells, or offers for sale, whose employer is engaged in the manufacturer ~~or~~ assembling of modular buildings, who is either a resident or nonresident of the State, but is attempting to do business in the State.

(22) "Mobile home" or "manufactured home" means any residential dwelling unit constructed to standards and codes as promulgated by the United States Department of Housing and Urban Development. Mobile or manufactured homes are not to be covered by the provisions of these regulations.

(23) "Model" means a specific design of modular buildings, which is based on size, room arrangement, method of construction, location, arrangement or size of plumbing, mechanical or electrical equipment and systems therein in accordance with plans submitted to the Division.

(24) "Modular building unit" means a building including the necessary electrical, plumbing, heating, ventilating, and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, as a finished building and not designed for ready removal to another site. This term is not to be limited to residential dwellings.

(25) "Open construction" means any modular building, building component, assembly or system manufactured in such a manner that all parts or processes of manufacture can be readily inspected at the installation site without disassembly, damage to, or destruction thereof.

(26) "Point of manufacture" means the place of business at which machinery, equipment, and other capital goods are assembled and operated for the purpose of making, fabricating, constructing, forming, or assembling modular building units.

(27) "Residential building" means that part of any structure in which families or households live or in which sleeping and accessory accommodations are provided, including but not limited to dwellings, multiple-family dwellings, hotels, motels, dormitories, and lodging houses.

(28) "Site" means the location on which a modular building is installed or is to be installed.

(29) "Standard design" means any buildings, system, model, series, or component intended for duplication or repetitive manufacture.

New Jersey

f. To eliminate unnecessary duplication of effort and fees in the review of construction plans and the inspection of construction.

P.L. 1975, c.217 §2.

52:27D-121. Definitions

As used in this act unless the context clearly indicates otherwise:

"Building" means a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind.

"Business day" means any day of the year, exclusive of Saturdays, Sundays, and legal holidays.

"Certificate of occupancy" means the certificate provided for in section 15 (52:27D-133) of this act indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the State Uniform Construction Code and any ordinance implementing said code.

"Commissioner" means the Commissioner of Community Affairs.

"Code" means the State Uniform Construction Code (52:27D-119 et seq.).

"Construction" means the construction, erection, reconstruction, alteration, conversion, demolition, removal, repair or equipping of buildings or structures.

"Construction board of appeals" means the board provided for in section 9 (52:27D-127) of this act.

"Department" means the Department of Community Affairs.

"Enforcing agency" means the municipal construction official and subcode officials provided for in section 8 (52:27D-126) of this act and assistants thereto.

"Equipment" means plumbing, heating, electrical, ventilating, air conditioning, refrigerating and fire prevention equipment, and elevators, dumb waiters, escalators, boilers, pressure vessels and other mechanical facilities or installations.

"Hearing examiner" means a person appointed by the commissioner to conduct hearings, summarize evidence, and make findings of fact.

"Maintenance" means the replacement or mending of existing work with equivalent materials or the provision of additional work or material for the purpose of the safety, healthfulness, and upkeep of the structure and the adherence to such other standards of upkeep as are required in the interest of public safety, health and welfare.

"Manufactured home" or **"mobile home"** means a unit of housing which:

(1) Consists of one or more transportable sections which are substantially constructed off site and, if more than one section, are joined together on site;

(2) Is built on a permanent chassis;

(3) Is designed to be used, when connected to utilities, as a dwelling on a permanent or nonpermanent foundation; and

(4) Is manufactured in accordance with the standards promulgated for a manufactured home by the Secretary of the United States Department of Housing and Urban Development pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," P.L. 93-383 (42 U.S.C. §5401 et seq.) and the standards promulgated by the commissioner pursuant to P.L. 1975, c.217 (C. 52:27D-119 et seq.).

"Municipality" means any city, borough, town, township or village.

"Owner" means the owner or owners in fee of the property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, firm or corporation, directly or indirectly in control of a building, structure, or real property and shall include any subdivision thereof of the State.

"Premanufactured system" means an assembly of materials or products that is intended to comprise all or part of a building or structure, and that is assembled offsite by a repetitive process under circumstances intended to insure uniformity of quality and material content.

"Public school facility" means any building or any part thereof of a school, under college grade, owned and operated by a local, regional, or county school district.

"State sponsored code change proposal" means any proposed amendment or code change adopted by the commissioner in accordance with subsection c. of section 5 (52:27D-123) of this act for the purpose of presenting such proposed amendment or code change at any of the periodic code change hearings held by the National Model Code Adoption Agencies, the codes of which have been adopted as subcodes under this act.

"Stop construction order" means the order provided for in section 14 (52:27D-132) of this act.

"State Uniform Construction Code" means the code provided for in section 5 of this act, or any portion thereof, and any modification of or amendment thereto.

"Structure" means a combination of materials to form a construction for occupancy, use, or ornamentation whether installed on, above, or below the surface of a parcel of land; provided, the word "structure" shall be construed when used herein as though followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning.

P.L. 1975, c.217 §3. Amended by P.L. 1977, c.221, §1, effective Sept. 14, 1977; P.L. 1981, c.484, §8, effective Jan. 12, 1982; P.L. 1983, c.388, §1, effective Dec. 22, 1983; P.L. 1983, c.496, §1, effective April 17, 1984.

Massachusetts.

Manufactured building: Any building which has concealed elements, such as electrical, mechanical, plumbing, fire protection, insulation, and other systems affecting health and safety, and which is manufactured or assembled in manufacturing facilities, on or off the building site. Also, any building as defined above which does not have concealed elements, but which has been approved by the Commission at the request of the manufacturer.

Marquee sign: A sign attached to or hung from a marquee canopy or other covered structure projecting from and supported by the building and extending beyond the building wall, building line or street lot line.

Masonry: A built-up construction or combination of building units or materials of clay, shale, concrete, glass, gypsum, stone or other approved units bonded together with mortar or monolithic concrete. Reinforced concrete is not classed as masonry.

Material platform hoist: A power or manually operated suspended platform conveyance operating in guide rails for the exclusive raising or lowering of materials, which is operated and controlled from a point outside the conveyance.

Means of egress: A continuous and unobstructed path of travel from any point in a building or structure to a public way and consists of three (3) separate and distinct parts: (a) the exitway access; (b) the exitway; and (c) the exitway discharge. A means of egress comprises the vertical and horizontal means of travel and shall include intervening room spaces, doors, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts and yards.

Mechanical ventilation: The mechanical process of supplying [illegible] air from, any space.

Mezzanine: An intermediate level between the floor and ceiling [illegible] covering not more than thirty-three (33) per cent of the floor area [illegible] which it is located.

Miscellaneous hoisting and elevating equipment: See Elevator [illegible] Regulations (524 CMR 3.00 through 11.00); Elevator, Dumbwaiter, [illegible] Moving Walk Regulations (524 CMR 15.00 through 33.00).

Mobile home: A structure, transportable in one or more sections, which is eight (8) body feet or more in width and is thirty-two (32) body feet or more in length, and which is built on a permanent chassis, and designed to be used as a dwelling with [illegible] permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

Mobile unit: A structure of vehicular, portable design built on a chassis and designed to be moved from one site to another and to be used, with or without a permanent foundation.

Senator BRYAN. Mr. Reville, we thank you very much.

Mr. Wehrman, we are delighted to have you here this morning, as well.

STATEMENT OF LEONARD WEHRMAN, VICE PRESIDENT FOR GOVERNMENT AND INDUSTRY RELATIONS, NATIONAL FOUNDATION OF MANUFACTURED HOME OWNERS, DALY CITY, CA

Mr. WEHRMAN. Good morning, Mr. Chairman, and Senator Cranston. Thank you very much, Senator Cranston, for the kind remarks. I happen to live in Daly City, right outside of your office in San Francisco.

Mr. Chairman, I respectfully ask unanimous consent that my oral and written statement and comments be made part of the public record.

Senator BRYAN. They will, indeed.

Mr. WEHRMAN. My name is Leonard Wehrman. I serve as the Vice President for Government and Industry Relations for the National Foundation of Manufactured Home Owners. The National Foundation is comprised of the statewide and local homeowners associations representing the owners of manufactured homes across the Nation and their common interests.

Part of our charter is to ensure that purchasers of manufactured homes receive a safe, quality constructed, durable, and affordable housing product free of defects, and to educate the elected officials, Government agencies, and the public on issues pertaining to this form of housing and shelter.

In the back of my testimony, Mr. Chairman, and Mr. Cranston, is a copy of our Home Owner Bill of Rights that I had included, and I would draw your reference to numbers 1, 2, 3, and 4, as they pertain particularly to the purposes of this committee.

I also would like to share with you very briefly some statistics that we think are important for you to understand the magnitude of this program. We think that in manufactured housing communities in the United States there are approximately 4.5 million households—that is, individual homes—housing approximately 8.2 million occupants. These homes have approximately $120 billion of housing value.

We also think that there are approximately 38,000 manufactured housing communities, rental communities, subdivisions, et cetera, and particularly those over 25 lots each. And on private property we think there are approximately 2.7 million households, 5.8 million occupants, and these homes have a value of approximately $75 billion.

The asset value of the manufactured home owners make this by far the biggest single federal program at HUD, yet it is still a very small and insignificant part of their overall housing program. For comparison purposes, the near-$200 billion of housing value far exceeds the comparable asset value of all segments of the manufactured housing industry, including manufacturing plants, their inventory, supplies, and equipment, plus the 8000 or so retailer sales facilities across the Nation, and the market value of the 38,000 manufactured housing communities across the country.

So, Mr. Chairman and Senator Cranston, the home owners across the Nation have a very large stake in the future of any manufactured housing program. Too much concern of the industry at the expense of the public has led to the current confrontation between the various interests. We need a balance in the manufactured housing program, and that is why we are here.

As you know, Mr. Chairman, the Mobile Home Owners League of the Silver State of Nevada is a charter member of the National Foundation of Manufactured Home Owners, and their president, Vickie Demas, plus their membership are likewise appreciative of your concerns on H.R. 5157. May I also add, Mr. Cranston, California has an organization which is also a charter member called the Golden State Mobil Home Owners League that has as its membership 150,000 mobile home owners in the Golden State, and they support this, as well. And for the purposes of Mr. D'Amato, we also have an organization in New York State, the Coalition of Mobile Home Owners, who likewise support this issue.

You may recall, Mr. Chairman, in your days as Governor of Nevada several years ago you were our opening presenter at the National Foundation meeting, and we remember that very well, and we are very appreciative of that.

The National Foundation firmly believes that the legislation in section 756 to be very poor public policy overall for the future existence of the Nation's manufactured housing program. In fact, it has no building blocks in it for if we were to come back to the Congress asking for later amendments, it has no building blocks for the future.

So we are here today to plead with the Senate on behalf of all of your constituency back home and the potential purchasers of manufactured housing to formulate a good National policy for the Federal program. We do agree that there should be constructive and deliberate modernization and overhaul of the Federal program administered by HUD, and to reestablish a new priority after 15 years, and to set in motion the long-awaited legislation that would bring renewed confidence to the potential contribution of this form of housing and shelter to the American people.

The House changes to the Federal standards are a major step backward, particularly when the purchasing public is seeking long-term stability in the housing market.

Mr. Chairman and Senator Cranston, unfortunately all too often the direct concerns, and indeed the consequences expressed by the public, and likewise by the current homeowners of manufactured housing, have been silent. So we are here today to let the U.S. Senate know about homeownership, to help make good public policy, and to change the direction of the legislative proposals by Congress.

The specific issues raised by the House amendments are very technical and far-reaching in nature. We have found they demand much more careful consideration by both Congress and affected parties. Simply, the legislative arena is not the best forum to resolve "Codes and Standards" issues.

Unfortunately, there is precious little time to put together a well-thought-out reform for legislation to be enacted by Congress during the remaining period of time. However, we do recognize the necessity for modernizing the program.

As Mr. Reville stated in his testimony, for several years all attempts to resolve these complex issues on a "volunteer basis" have not been productive and a more organized and comprehensive plan must be developed.

Therefore, let me get to our key purpose for this proposal:

The National Foundation of Manufactured Home Owners recommends and respectfully proposes the following to hurdle the impasse we are caught in:

First, the 101st Congressional Senate-House Conferees, or the Senate on its own, should delete all of the language in Section 756 of H.R. 5157 that relates to the Federal standards.

In its place, Congress should authorize and fund a "National Manufactured Housing Study Commission", or something similar to it, for a specific period of time to be comprised of two members from the manufacturers, the primary inspection agencies, State manufactured housing program directors, consumers/home owners, plus one member representing retailers/installers, transporters, HUD, the public-at-large, and any other member designated by Congress. In addition, we believe HUD should be able to provide logistic, administrative, and secretariat support for this particular program.

The Commission's responsibility would be to determine the status of manufactured housing as a viable form of the housing/shelter industry, to conduct public hearings, and to provide the Congress and the Bush administration—and specifically HUD—with commentary and recommendations on how to properly utilize manufactured housing, changes to the overall Federal program, and the legislative changes necessary to accomplish all of this.

Frankly, the agenda should be left open to the Commission members to develop future strategies and programs that we are going to use during the next decade.

Insofar as funding is concerned, which is always a bone of contention and it can be augmented if you wish, the label fees that have been collected basically from the consumers and through the industry from 1976 to 1989 have been $75 million. Quite frankly, the consumers are asking what did we get for all of this $75 million if we are still sitting at this table today?

So we think that the $7.3 million, or nearly $7.3 million, that is collected from them annually, upwards of $50,000, would not be out of hand or out of sight to form and fund this particular commission.

Let me make some comments relative to this——

Senator BRYAN. Mr. Wehrman, I hate to cut you short here, but we are going to have to move along here. We have got your complete testimony for the record. Let's maybe catch some of those on the questions.

Mr. WEHRMAN. Could I just make one closing comment to this?

Senator BRYAN. You certainly may. Surely.

Mr. WEHRMAN. Next week in Chicago, Mr. Chairman, this same proposal will be presented to the Panel on the Advisory Commission for Regulatory Barriers on Affordable Housing, and we think it is that important that we do so, and we will be asking for both their support and their concurrence to move this program forward.

In final, I have left in the back of this what I call the big-ticket items that I would ask your reference to, which will be referred to by other people. Thank you very much, Mr. Chairman.

[The complete prepared statement of Leonard Wehrman follows:]

National Foundation
Manufactured Home Owners

161 FRANCISCAN DRIVE * DALY CITY, CALIFORNIA 94014 * (415) 992-7470

Testimony of Leonard Wehrman

before the Subcommittee on Housing and Urban Affairs,
of the Committee on Banking, Housing and Urban Affairs

United States Senate

Regarding Proposals to Title VI
Federal Manufactured Housing Construction and Safety Standards
with Reference to H.R. 5157 (Formerly H.R. 1180)

July 26, 1990

Good Morning, Mr. Chairman, Ranking Minority, and Members of the Subcommittee.

My name is Leonard Wehrman. I serve as the Vice President for Government and Industry Relations for the National Foundation of Manufactured Home Owners. The National Foundation is comprised of the state-wide and local homeowner associations representing the owners of manufactured homes across the nation and their common interests. Part of our charter is to insure that purchasers of manufactured housing receive a safe, quality constructed, durable, and affordable housing product free of defects, and to educate the elected officials, government agencies, and the public on issues pertaining to this form of housing and shelter.

The National Foundation was formed in 1975 and re-structured in 1982 and again in 1988 to address the ever changing direction taken by the manufactured housing industry segments (manufacturers, retailers, investor, lenders, etc.). The industry has not been on a steady course during the past 16 years.

Mr. Chairman, the National Foundation is categorically in direct opposition to the House version of H.R. 5157, formerly H.R. 1180, that amends Title VI of the Housing and Community Act of 1974 and specifically to section 756 containing the federal manufactured home construction and safety standards.

We concur with your concerns that the public at large and the consumers/purchasers are being shafted. We note in particular your comment in Las Vegas on July 8 that expressed the "mischief" going on in the house.

The Mobile Home Owners League of the silver state is a charter member of the National Foundation and their president, Vickie Demas, plus their membership are likewise appreciative of the

Senator's concern on the future of manufactured housing and the amendments in H.R. 5157.

The National Foundation of Manufactured Home Owners firmly believes the legislation in Section 756 of H.R. 5157 to be very poor public policy for the future existence of the nation's manufactured housing.

We are here today to plead with the U.S. Senate and on behalf of all your constituency back home, and the potential purchasers of manufactured housing, to formulate a good national policy for this federal program.

We do agree that there should be a constructive and deliberate modernization and overhaul of the federal manufactured housing program administered by HUD, to re-establish a new priority, and to set in motion the long-awaited legislation that will bring renewed confidence in the potential contribution of this form of housing and shelter to the American people.

Let's together make manufactured housing the "Housing of Choice" not the "Housing of Last Resort," which is the current direction for the manufactured housing program.

The House changes to the current federal program are major giant steps backward at a time when the purchasing public is seeking long-term stability in the housing market.

Mr. Chairman, unfortunately all too often the direct concerns and indeed the consequences expressed by the public and likewise by the current owners of manufactured housing have been silent. So we are here today to let the U.S. Senate know about homeownership, to help make good policy, and to change the direction of the latest legislative proposals by the House.

The specific issues raised by the House amendments are very technical and far-reaching in nature. We have found they demand much more careful consideration by both congress and affected parties. The legislative arena simply is not the forum to resolve "Codes and Standards" issues.

Unfortunately, there is precious little time to put together a well-thought out reform for legislation to be enacted by Congress during the remaining 1990 session.

However, again, we all recognize the necessity for modernizing the federal manufactured housing program, but the House version would not be good public policy and would set the manufactured housing program in reverse.

For several years all attempts to resolve these complex issues on a "volunteer basis" have not been productive and a more organized and comprehensive procedure must be developed at the earliest possible date.

Major Proposal For Congress:

The National Foundation of Manufactured Home Owners recommends and respectfully proposes the following to hurdle the impasse we are caught in:

a) The 101st Congressional Senate - House Conferees, or the Senate on its own, should delete all of the language in Section 756 of H.R. 5157 that relates to the federal standards.

b) Then Congress should authorize and fund a "Manufactured Housing Commission" for a specific period of time to be comprised of two members each from the manufacturers, the primary inspection agencies (both state and private), state manufactured housing program directors, consumers/homeowners, plus one member representing retailers/installers, transporters, HUD, the public-at-large, and any other member designated by Congress. In addition, HUD should provide logistic, administrative, and secretariat support for the Manufactured Housing Commission.

c) The Commission's responsibility would be to determine the status of manufactured housing as a viable form of the housing/shelter industry, to conduct public hearings, and to provide the congress and the Bush Administration (HUD) with commentary and recommendations on how to properly utilize manufactured housing, changes to the federal program, and the legislative changes necessary to accomplish them.

d) The agenda would be left open to the commission members to develop the future strategies and programs during the next decade.

Commentary on Commission Process:

To the above points, the manufactured housing industry, the federal manufactured housing programs, and the legislation in the House, have everyone at such odds and frustration that we sincerely believe that it will take this type of resolution to bring the program back to where it justly belongs.

Frankly, Mr. Chairman, this nation needs manufactured housing, truly affordable housing, as a consistent form of the shelter industry. However, its current direction is leaving chaos in the federal program. We need a sense of direction and purpose, a new strategy to guide us forward, and to get on with the business of providing safe, durable, quality constructed, and affordable housing to the citizens of this nation.

Right now the manufactured housing industry and programs are floundering around in search of a more meaningful direction.

It is obvious to many of the consumers/purchasers and to the public that the manufactured housing industry and the federal-state programs are in such disarray that manufactured housing production will continue to decline unless and until we all step back and honestly evaluate and address all of the problems plaguing the manufactured housing industry.

We respectfully ask for Congressional acknowledgement and support to move the National Foundation's proposal forward and we ask for quick enactment.

We all truly recognize what the issues are. Our resolve is to get the mechanism, motivation, drive, and kick to perform the tasks ahead.

At a quick count, we know of at least 49 key items that affect adversely the consumers/purchasers of manufactured housing today and these currently are not being addressed. Affordable housing, and in particular manufactured housing, is suffering as a result of the public perceptions in the market place. We can start to address the reasons why. **WE KNOW WHAT THEY ARE!**

As previously mentioned, the particular issues that confront the consumers/purchasers relative directly or indirectly to the federal manufactured housing program covers the entire spectrum. One way or another they impact homeownership and the stability of this form of shelter.

The "Big Ticket" items that concern homeowners/consumers include the following:

a) Maintenance, repairs, and upkeep of the home.

b) "Full Express" warranty. Durability of product. "Joint and Severable" liability by both manufacturers and retailers/installers.

c) Content and structure of consumer manual. 24 CFR 3283.

d) Transportation: From factory to retailer's lot. From retailer to site - last 5 miles. Specifically relating to both construction requirements and actual transport limitations.

e) Retailers: Monitor lots for defective homes. Compliance with codes.

f) General installation requirements: Connection and testing of utility systems. Types and performance of foundation/pier systems. Sign-off approval by both manufacturer and retailer. Health and safety inspection and issuance of "certificate of occupancy permit."

g) Manufacturer's notification and correction of all defects. Spelled out clearly in the FMHCSS Act and Regulations.

h) Improvement in finance programs.

i) Moisture infiltration into the homes. Water leaks. Not properly designed. Structurally not in compliance. Poor quality of workmanship. Types of windows, doors, caulking, putty tapes, and sealants. Transportation - roofs and siding.

j) Ventilation and condensation.

k) Site limitations because of durability and quality.

l) Training of industry personnel: Manufacturer's management. Lack of professional personnel. Quality of construction and workmanship.

Retailers: Most do not understand federal standards and requirements.

DAPIA/IPIA and in-house quality control personnel lack training and knowledge of federal program. Design and inspection criteria.

m) Performance and professional requirements of third party primary inspection agencies - both state and private.

n) Require HUD and federal program personnel, including NCSBCS contract employees, to perform random field surveys and evaluation of homes after siting.

To perform research and testing of failed systems.

Random installation testing.

o) For HUD to annually evaluate and report to Congress and to the public on its findings relating to both used and new homes as to durability, quality, and ownership of manufactured housing.

In summary, Mr. Chairman, much work is ahead for the manufactured industry segments overall, the federal and state program personnel, and the consumers/homeowners to resolve the dilemma we find ourselves in today and as described herein.

After being a consumer/homeowner representative for 20 plus years, and involved in the federal manufactured housing program since 1974, our lesson from this experience is that you don't really understand this industry in total and the consequences of its action until you see it on a continual basis through the perspective of the public and the ultimate purchaser of a manufactured home.

We specifically encourage this subcommittee to challenge our resolve to bring back to this congressional panel comprehensive proposals that will once again provide quality, durable, and affordable housing to the American people.

Thank you, Mr. Chairman and Members for granting our National Foundation the opportunity for our testimony today.

I stand for any questions by the Sub-Committee.

Senator Bryan. Mr. Wehrman, we thank you very much.

Mr. Freeland, let us hear from you next, if we may. I know you all have complete testimony, but let me assure you that it has been read by the members of the panel here, and if we could just kind of get you to highlight and try to get us to stay within that five minutes so we will get plenty of time to ask some questions of each of you.

Mr. Freeland, you may proceed.

STATEMENT OF FRANK FREELAND, ASSOCIATE STATE COORDINATOR FOR NORTHERN CALIFORNIA, AARP VOTE PROGRAM, AMERICAN ASSOCIATION OF RETIRED PERSONS, APTOS, CA

Mr. Freeland. Mr. Chairman, and my own Senator Cranston, greetings.

I am Frank Freeland, Associate Coordinator in Northern California for the American Association of Retired Persons' Vote Program. I am also a resident of a mobile home park located in Aptos, California, in the earthquake area. On behalf of AARP I want to thank you, Mr. Chairman, for this opportunity to testify on manufactured home construction and safety standards.

I also want to thank you for your strong statement during the Floor debate on S. 566 on behalf of consumer interests. This hearing is a testimony to your leadership on this important but much neglected segment of the Nation's housing market.

Manufactured housing provides an important source of housing for older Americans. According to the 1987 American Housing Survey, older people account for 22 percent of all people residing in manufactured homes. Some 1,868,000 older persons currently live in manufactured homes, more than reside in all federally assisted housing programs combined.

Although almost half of the older persons in manufactured housing have annual incomes below $10,000, more than 90 percent own their own homes. Approximately one-third of older manufactured housing residents spend over 30 percent of their income on housing costs. Over half of the Nation's manufactured homes are located in rural areas, clustered predominantly in the southern and western regions of the Nation.

The median age of older mobile home residents is 73, and almost half live alone. Older women make up 72 percent of those living alone.

For older householders, low maintenance and operating costs are as important as the initial purchase price. The true measure of the affordability of manufactured housing relative to other types of housing must include quality-related costs beyond the initial acquisition price such as maintenance, energy, insurance, and mortgage costs. AARP's recommendations on manufactured housing can be found in our written statement. In my oral remarks now, here are a few of our recommendations.

Number one, HUD should establish minimum requirements for in plant and inspection design approval, including a requirement that only registered engineers and architects can approve the designs. HUD should prohibit the same firm from undertaking design and in plant inspection tasks and should require multiyear inspection contracts to retain provisions in the 1974 act with regard to notification of defects, research, testing, development and training.

Three, HUD should require those who install manufactured housing to strictly follow manufacturers' installation specifications and relevant State standards. In States having no installation standards, HUD should develop and enforce such standards.

In addition, HUD should establish and enforce strong transportation standards that ensure that manufactured housing units can withstand the stress of transportation.

The permanent chassis feature should remain a requirement under the Federal preemption for manufactured housing unless a new defining line is established between manufactured and modular housing. A reasonable definition would include among modular housing some homes that currently fall under the Federal preemption for manufactured housing. No elimination of the permanent chassis feature should be enacted without simultaneous enactment of strong transportation and installation standards to ensure that manufactured homes without permanent chassis are transportable.

If manufactured housing is to continue to serve as a viable and affordable housing option for older persons, the manufactured housing industry must become increasingly quality-oriented.

AARP believes it is in the interest of both the owners and manufacturers to achieve both quality and affordability. Such improvements will ensure the long-term health of the manufactured housing industry and the continued availability of this important housing source for older persons.

Our association looks forward to working with you, Mr. Chairman, and with other members of Congress in developing changes to title VI that achieve these goals.

Thank you.

[The complete prepared statement of Frank Freeland follows:]

AARP

Bringing lifetimes of experience and leadership to serve all generations

Statement

of

The American Association of Retired Persons

on

The Manufactured Home Construction and Safety Standards Act

Before the

Subcommittee on Housing and Urban Affairs

Committee on Banking, Housing and Urban Affairs
U.S. Senate

July 26, 1990

WITNESS: Frank Freeland
Associate Coordinator
Northern California
AARP VOTE Program

For further information, contact:

Don Redfoot
Legislative Representative
Federal Affairs Department
(202)728-4275

Mr. Chairman, I am Frank Freeland, Associate Coordinator in Northern California for the American Association of Retired Persons (AARP) VOTE program. I am also a resident of a mobile home park located in Aptos, California. On behalf of AARP, thank you for this opportunity to testify on manufactured home construction and safety standards. I also want to thank you for your strong statement during the floor debate on S. 566 on problems with the current system of inspection and notification with respect to manufactured housing. This hearing is a testimony to your leadership on this important, but much neglected, segment of the nation's housing market.

AARP's recommendations on manufactured housing can be summarized as follows:

- Manufacturing Standards - Upgrade current standards for manufactured housing with specific emphasis on safety, durability and long-term affordability.
- Notification - Retain the term "defect" and improve current notification standards to emphasize quality and durability as well as safety considerations.
- Remedies - Retain provisions requiring manufacturer to repurchase the home or furnish needed parts when a defect constitutes an imminent safety hazard.
- Inspection - HUD should establish minimum education and experience criteria for in-plant inspection and design approval, including a requirement that only registered engineers or architects can approve designs. In addition, HUD should prohibit the same firm from undertaking design and in-plant inspection tasks and require multi-year inspection contracts.
- Research and Testing - Retain provisions in the 1974 Act with regard to research, testing, development, and training.
- Warranties - Require written service agreements between manufacturers and dealers of mobile homes that clearly establish responsibility for warranty repairs, including those resulting from transportation and installation.
- Installation and Transportation - HUD should require those who install manufactured housing to strictly follow manufacturers installation specifications and relevant state standards. In states having no installation standards, HUD should develop such standards. In addition, HUD should establish and enforce strong transportation standards that ensure that manufactured housing units can withstand the stress of transportation.

- Permanent Chassis - The permanent chassis should remain a requirement under the federal preemption for manufactured housing unless a new defining line is established between manufactured and modular housing. A reasonable definition would undoubtedly include among modular housing some homes that currently fall under the federal preemption for manufactured housing. No elimination of the permanent chassis should be enacted without simultaneous enactment of strong transportation and installation standards to ensure that manufactured homes without permanent chassis are transportable.

- Consumer Services - State Administrative Agencies (SAA's) should be strengthened by additional funding, technical assistance and training from HUD. Use of label fees should be permitted for such activities.

Profile of Older Mobile Home Residents

Manufactured housing provides an important source of housing for older Americans. According to the most recently released American Housing Survey, older households account for 22 percent of all households residing in manufactured homes. Some 1,868,000 older persons currently live in manufactured homes.

Manufactured housing is especially important as an affordable homeownership opportunity for older families with modest incomes. Owners of manufactured housing represent 7 percent of all older homeowners, a number that rises to over 10 percent for older homeowners with annual incomes below $10,000. Although almost half (47.5%) of older households in manufactured housing have annual incomes below $10,000 and 81 percent have annual incomes below $20,000, more than 90 per cent owned their homes. Despite its relatively low purchase price, approximately one-third (32.1%) of older manufactured housing residents spent over 30 percent of their income on monthly housing costs.

Over half of the nation's manufactured homes (53.2%) are located in rural areas, clustered predominately in the southern (42.7%) and western (31.3%) regions of the nation. The median age of older mobile home residents is 73 and almost half (46.5%) live alone. Older women make up 72 percent of those living alone.

For older households, low maintenance and operating costs are as important as the initial purchase price. The true measure of the affordability of manufactured housing relative to other types of housing must include costs beyond the initial acquisition price, such as durability, energy efficiency, and the willingness of financial institutions to provide loans.

Impact of the HUD Standards on Safety and Quality of Units

The Department of Housing and Urban Development has responsibility for developing and enforcing construction and safety standards for manufactured housing. In preempting the states of all authority with regard to construction and safety, Congress provided that the federal standards would be "the highest standards of protection."

The federal standards cover the design, construction, fire safety, plumbing, heat producing and electrical systems of all residential manufactured homes intended for single family occupancy. Manufactured homes produced for sale on or after June 15, 1976 must be built in compliance with the standards and must bear a label indicating such compliance. With the exception of controls on formaldehyde emissions, the standards have remained essentially unchanged since 1976.

The construction and safety standards have proved effective in increasing the fire safety of manufactured housing produced since 1976. A 1989 study produced for HUD by the National Fire Protection Association (NFPA) indicates that fire death rates were 74 percent lower in units built after 1976. During the same period, fire-related injuries were also reduced by 34 percent. These reductions are significant since persons 65 and over are twice as likely to die in fires as younger persons.

The NFPA report also notes, however, that manufactured homes have a higher rate of deaths per fire than conventional homes and this difference in fire death rates is "not being significantly reduced". The report indicates that tougher flame spread materials and limited combustible materials requirements in heating equipment areas and kitchens would likely prevent the spread of fires and reduce damages. The report also recommends examining procedures for detector installation by manufacturers and standards for electrical distribution systems, flame spread, chimneys, fireplaces, connectors and ducts as well as heat tape in homes built after 1976.

Recent HUD-commissioned studies indicate that durability has not improved much since the implementation of the 1974 Act. A 1986 analysis of 1983 American Housing Survey (AHS) data by Westat for HUD indicated "few significant differences" existed between homes built before and after 1976 with regard to problem rates. Twenty-one percent of total households reported three or more durability problems.

The Westat study found that the problem affecting the greatest proportion of homes was "roof leaks" reported by 21 percent of manufactured home residents. Other problems reported included leaky pipes or plumbing fixtures (15%) inoperative doors or windows (14%), water heater problems (10%), air conditioning problems (9%), and uneven settling (7%). Several types of problems such as floor buckling, leaky pipes, inoperative doors or windows, uneven settling and interior odors were more prevalent in the most recently manufactured homes (1982 and 1983).

Comparing manufactured homes to site-built homes, the study found a higher rate of problems with regard to holes in the floor, roof leaks and heating breakdowns in manufactured housing. New manufactured homes experienced roof leaks at a significantly greater rate than did site-built homes with roof leaks constructed prior to 1970, indicating the need for additional attention in this area. Finally, the Westat study found that owners of manufactured homes consistently indicated a lower level of satisfaction with their housing than owners of site-built homes.

Updating the Federal Standards

A recent report by the National Conference of States on Building Codes and Standards (NCSBCS), notes the need to update the construction and safety standards, particularly with regard to energy conservation, body and frame construction and condensation. The report indicates that if HUD adopted the energy requirements of the Farmers Home Administration (FmHA), energy consumption of most manufactured homes would be reduced by 37 to 46 percent. Studies by the National Center for Appropriate Technology note that manufactured homes are 1.5 to 2 times less energy efficient than other types of housing.

A 1984 report by RADCO for HUD also indicated that the current federal construction standards fail to require the necessary ventilation to prevent condensation and do not provide for proper window design. The NCSBCS report notes that lack of updated standards hinders efforts at the state and local level to encourage more communities to accept manufactured housing. The lack of rental spaces is a significant factor in reducing the affordability of this type of housing for current and prospective owners.

AARP supports efforts to update and strengthen construction standards in manufactured housing. We also support an expansion of testing programs to ensure that manufactured housing meets the goal of the 1974 Act to provide the "highest standards of protection."

Improving the Regulatory System

Under the provisions of Title VI, the federal manufactured housing program uses a third-party system to assure that manufactured homes are built to the Federal Manufactured Housing Construction and Safety Standards. HUD approves the qualifications of third-party private companies or state agencies to oversee the design and construction of manufactured housing. These approved third-party agencies are then hired by the manufacturers to inspect designs and production.

HUD employs the National Conference of States on Building Codes and Standards (NCSBCS) to monitor the performance of the third-party agencies. NCSBCS performs this task by reviewing 10% of all design packages and performing monitoring inspections (at least once a year with some follow-up inspections) of third-party agencies at manufacturing facilities.

The third-party agencies approved by HUD to perform design reviews and assure that the designs meet the federal standards are known as Design Approval Inspection Agencies (DAPIAs). As of 1987, there were nine DAPIAs approved by HUD; eight are private agencies and one is a state government agency.

Production Inspection Primary Inspection Agencies (IPIAs) are the third-party agencies approved to perform in-plant production inspections and assure HUD that manufacturers can build homes to the approved drawings. IPIAs oversee the manufacturing process and check every home at least once during the construction process. In 1987, there were 24 HUD approved IPIAs; 16 were state agencies and the remaining 8 were private companies.

To carry out Congressional intent in Title VI, states were encouraged to play a more prominent role in the federal program by serving as both DAPIAs and IPIAs. Additionally, states were allowed to serve as exclusive IPIAs, whereby all manufacturers in that state are required to contract with the state for IPIA services - fourteen of the sixteen state IPIAs were exclusive state IPIAs in 1987.

There are some notable weaknesses and gaps in the current regulatory system for manufactured housing. Although some manufacturers have complained about the burden of regulation, oversight has actually decreased. A report by the National Conference of States on Building Codes and Standards (NCSBCS) notes in-plant inspection hours dropped from nearly 70,000 hours in 1980 to approximately 10,000 in 1986. Similarly, design review hours were cut in half from 10,000 hours in 1980 to 5,000 in 1986 and the number of in-plant inspections performed at each facility fell from 5 in 1979 to 1.8 in 1986.

Moreover, other housing must conform to stricter building codes than the current manufactured housing standards and must undergo more numerous inspections. For example, NCSBCS reports that a survey of state modular home programs shows several states inspecting plants once every month. Site-built housing is inspected during several stages of its construction. The industry's plea for a more housing-based approach to manufactured housing should also include a more housing-based approach to inspections.

The current regulatory structure provides insufficient protection against potential conflicts of interest between the manufacturers and inspection agencies. Fees for the IPIA's and DAPIA's are negotiated directly by the manufacturer, giving the manufacturer undue leverage to influence decisions by the inspection agencies. Further, the same firm may conduct both design and in-plant inspections which can reduce the incentive to call attention to approved faulty designs. The IPIA's should be independent from DAPIA's because they are expected to deny federal labels in case of noncompliance.

HUD's record on monitoring the inspection process and enforcement of standards is weak. Since the program began in 1976, only one inspection agency has been disqualified for faulty inspections despite numerous indications of problems. At minimum, HUD should prohibit the same firm from undertaking design and in-plant inspections tasks and require multiyear inspection contracts.

In addition, qualifications required to do in-plant inspections or design approvals have been very weak. The Association calls upon Congress and HUD to establish and enforce minimum education and experience criteria for each inspector who is authorized to act on HUD's behalf. Only registered engineers and architects should be authorized to approve designs.

Installation Standards

Unlike site-built housing, manufactured homes must be transported and installed at the intended site of consumer use. Many homes are damaged in transit, altered or improperly installed by dealers. Improper installation can lead to major structural failure. Title VI requires manufacturers to provide a set of installation instructions with homes. However, there is no mechanism to ensure that these installation instructions are followed. Further, only about half the states have an installation standard and these are inadequately enforced.

The installation issue is one that should be addressed by the Congress, HUD, and the states. The states must be encouraged to adopt a comprehensive installation standard and enforce it.

Where states decline to establish standards, HUD should establish and enforce strict standards. Similarly, HUD should establish transporation standards to ensure the ability of a manufactured home to withstand the stress of transportation. AARP also recommends that the Federal Housing Administration (FHA) and the Veterans Administration require that effective installation codes and inspection programs be in place before approving financing.

Permanent Chassis

A great deal of the debate over reform of manufactured housing standards has centered on the current requirement of a permanent chassis. Because most manufactured housing is not really mobile, but is sited once on a permanent location, the original rationale for the requirement of a permanent chassis has been challenged.

Maintaining a needless piece of equipment that adds to the expense of the housing would appear to make no sense. However, two concerns must be addressed if the permanent chassis requirement is to be removed. First, as a practical matter, the permanent chassis requirement has been the major characteristic defining the difference between manufactured and modular housing. In order to avoid inclusion of modular housing under the generally weaker standards of the federal manufactured housing preemption, clear definitions of manufactured and modular housing must be established. In our opinion, such a definition should include under modular housing a substantial portion of what currently falls under the federal preemption for manufactured housing.

Second, the permanent chassis is not just a relic of a bygone era. For less expensive products, the chassis may be an essential structural component. If the permanent chassis requirement is to be eliminated, standards for construction, inspection, transportation, and installation should be simultaneously strengthened. Without stronger standards, elimination of the permanent chassis could prove disastrous for many consumers.

Improving Services to Mobile Home Owners

Title VI of the 1974 Housing Act established State Administrative Agencies (SAAs) to resolve consumer complaints. SAA duties include the investigation of consumer complaints and conducting administrative hearings related to the manufacturer's compliance with the regulations. Thirty-five states administer their own SAA's, while HUD handles consumer complaints in the remaining fifteen states. According to HUD's Sixth Report to Congress, SAA's received a total of 13,078 complaints (contained in 5,729 letters) over a 2-year period (1982 and 1983); HUD received 516.

According to the NCSBCS, the ratio of site inspections to units installed averaged three inspections per 100 units but, in some states, this figure was as low as 3 per 1,000. The same study reported that HUD performed only three site inspections for 26,641 units sited in the non-SAA states in 1985. According to HUD, SAA's initiated 44 recall cases in 1982 and 61 cases in 1983 involving notification and/or correction.

HUD's current authority to act on consumer complaints is limited to two instances. HUD (or an SAA) can order a manufacturer to notify owners of a defect (one not presenting an unreasonable risk of injury or death) affecting a class of homes. The Department may only require post-sale correction of a defect if it presents "an unreasonable risk of injury or death". Such defects are referred to as "serious defects" or "imminent safety hazards". HUD can do nothing about the more common complaints such as malfunctioning plumbing, warped walls, minor roof leaks, inoperable light switches, and problems with built-in furniture which are subject to manufacturer's warranties or state enforcement action.

AARP supports retention of the current notification requirements and HUD's recent action to increase label fees. A portion of these fees should be used to improve SAA response to consumer complaints.

Enforcement of Manufacturer's Warranties

Currently, most manufacturers provide a one-year warranty, and many states mandate warranties. The housing bill pending in the House Subcommittee would add a federal requirement that manufacturers provide two-year warranties.

When the manufacturer offers a warranty, the dealer, an independent business, usually provides the service. Consumers often get the runaround when disputes develop between the manufacturer and the dealer as to whether a particular defect results from an installation or manufacturing problem. While many manufacturers work hard at warranty service, there is little accountability in the current system. The average mobile home purchaser lacks the financial means to pursue expensive legal remedies.

AARP recommends that Title VI be amended to require written service agreements between manufacturers and dealers of mobile homes that clearly establish responsibility for warranty repairs, including those resulting from transportation and installation. A written service agreement would give real standing to consumers and enable state attorneys general to be much more effective in assisting owners of manufactured housing.

Conclusion

If manufactured housing is to serve as a viable and affordable housing option for older persons, the manufactured housing industry must become increasingly quality oriented. AARP believes it is in the interests of both owners and manufacturers to achieve both quality and affordability. Such improvements will ensure the long-term health of the manufactured housing industry and the continued availability of this important housing source for older persons. The Association looks forward to working with you, Mr. Chairman, and other members of Congress in developing changes to Title VI that achieve these goals.

Thank you.

Senator **Bryan**. Thank you very much, Mr. Freeland. We appreciate your testimony.

Ms. Bowman, we will hear from you now, please.

Senator **Cranston**. May I say a word?

I just want to say that I regret that my schedule requires me to go elsewhere at this point, and I am glad to have heard what I have heard, particularly from Mr. Wehrman and Mr. Freeland, since they are constituents.

I will be acquainted with the other statements made, and whatever discussion ensues from my staff. And I will want to submit some question for the record to you, since I cannot ask them verbally, depending on what ground is covered by the questioning by the chairman, and by others.

I thank all of you and I thank you for this hearing. Ms. Bowman, welcome, and good morning.

STATEMENT OF MARY BETH BOWMAN, DIRECTOR, ARKANSAS MANUFACTURED HOME COMMISSION, LITTLE ROCK, AR

Ms. **Bowman**. I am Mary Beth Bowman, Director of the Arkansas Manufactured Home Commission, Governor Bill Clinton's appointee to and Past President of the National Conference of States on Building Codes and Standards and Past Chairman of the State Task Force on the Federal Manufactured Housing Program.

The Arkansas Manufactured Home Commission is a State regulatory agency which governs the manufactured housing industry in Arkansas. We are approved both as the IPIA—in-plant inspector—and as the SAA—State Administrative Agency.

We not only enforce the Federal regulations, but we also enforce State laws and regulations governing this industry.

In 1985, a representative from the Department of Housing and Urban Development, HUD, encouraged the States to consider developing a mechanism to provide greater State comment and participation in the Federal Manufactured Housing Program so the States could speak as a collective body.

The States accepted that challenge by HUD and formed the State Task Force on Manufactured Housing. I was elected to chair that task force and after 1½ years of numerous meetings with industry, consumers and State representatives, we compiled the report "Fulfilling the Public's Trust."

The States spent many hours examining and reviewing the Federal program and determined changes to the Federal Manufactured Home Program were needed, and that the changes should provide better consumer protection and strengthen the construction standards and enforcement.

The Federal Manufactured Housing Construction and Safety Standards must be updated and kept current, quality control in the manufacturing facilities must be priority by industry and by all third party agencies, HUD should continue its testing of components, and the consumer protection remedies should be strengthened.

In 1987, as chair of the State Task Force on Manufactured Housing, I spoke at the Manufactured Housing Institute's—MHI—annual meeting, inviting them to join the States in forming a Joint

Council on Manufactured Housing. They accepted our invitation and such a council was formed including consumer and dealer representation.

We met on several occasions and as a council, voted to support eleven of the twelve recommendations outlined in the report, "Fulfilling the Public's Trust" with only minor modifications to the language.

The only recommendation the manufactured home industry would not support was our recommendation that Congress should hold oversight hearings on the Federal Manufactured Housing Program. The Housing subcommittee's amendments to title VI do not reflect those eleven recommendations supported by the Joint Council on Manufactured Housing.

There are many manufacturers who build safe, quality and durable homes and will continue to build quality homes no matter what amendments are made to title VI. We applaud these manufacturers and their commitment to safety, durability and quality housing.

Manufactured housing plays an important role in this Nation in providing affordable housing. Affordability relates not only to the initial acquisition cost of a home, but should also include durability, safety, quality and the degree of maintenance required to retain the home's value.

Our concerns are with the manufacturers who build manufactured homes to the minimum Federal Construction and Safety Standards, and do not maintain an adequate quality control program in the plant. These Standards are so marginal and structurally lax that to build a safe and durable home would require building a perfect home which is quite unlikely.

I would like to cite some examples of consumer complaints Arkansas has received to give you further evidence of the need for a better consumer protection program, upgraded standards and a more comprehensive enforcement program.

First of all, the examples described below are not isolated, atypical or exaggerated. Many of the major problems we encounter in Arkansas are moisture infiltration problems even though the Federal laws are very specific in section 3280.307(a) which states:

Example: This home was purchased in 1984. The interior wallboard on the roadside sidewall the entire length of the home had deflections of up to 1½ inches between the sidewall framing members—studs. The exterior siding was not installed adequately.

A section of the metal roof appeared to have been overlaid or patched. The repair method was not in accordance with the roofing manufacturer's installation instructions.

Some crowning and buckling had occurred on the rear bathroom decking. The exterior mini gutter failed to drain properly. The gutter was punctured in random locations to allow drainage by the manufacturer's serviceman—the method of repair was not in compliance with the product installation specifications. The interior cross-walls were separating from the side walls. Roof leaks were in the kitchen, rear bedroom and utility room. This agency required the manufacturer to compensate the homeowner and repurchase the home.

Example: This home was purchased in 1987. There are three leaks in the roof and the roof is sagging. The dormer was installed incorrectly allowing water into the home. When the manufacturer first received this complaint, they determined that they were not responsible for any leaks. The leaks continued to get larger and our agency was contacted by the consumers and an inspection was made and the manufacturer was responsible for the roof leaks, water stains on ceiling board and the roof sagging. Complaint still pending.

Example: This home was purchased in 1988. The ceiling board in the kitchen in one fairly large area is not supported properly and there are no trusses at this area. The frame on the home was warped and the home could not be leveled. The problem with the frame appears to be excess camber in the rear section and possibly some downwarping of the I-beam just forward of the axle area. Complaint is pending. Complainant obtained an attorney.

Example: This home was purchased in 1988. The metal roof is installed with large waves and with irregular bends in the metal over the entire length of the home along the peak. Certain areas of the roof shows obvious signs of stress and metal fatigue. The metal was obviously not pulled tight prior to the original fastening.

There is no caulking tape between the J-rails and the metal roof lap. The homeowner stated that during heavy rains, he could hear water dripping inside the sidewall cavity. The vinyl covered wallboard in the shower compartment has some small holes in the vinyl, exposing the wallboard to water damage. Complaint is still pending. Complainant obtained an attorney.

Example: This home was purchased in 1986. Most of the shingles on the rear half of the home are curled at the outside tab corners and the tabs show a lack of sealing along the sealing strip. The shingles on the front half exhibit the same condition, although the curling does not appear to be as pronounced.

The curling of the shingles was a result of a defect in their manufacture or installation—some of the shingles have high staples in the underlying shingles. Water heater was improperly plumbed and other plumbing problems were noted in our inspection report. The exterior hardboard siding is improperly installed. Some of the vertical lap joints of the siding are not properly fastened. Complaint is pending.

Example: This home was purchased in 1983. The homeowner complained about water infiltration damage to the home's structure since 1983—the home was properly repaired in 1990. The hardboard siding had deteriorated beyond repair and the flooring, perimeter rails and subfloor were damaged.

The moisture penetration was a result of:

(1) Over-driven nails—35 percent to 50 percent of all nailing;

(2) Omission of fastening along the edges at joints;

(3) Lack of fastening due to the misplacement of the studs at joints; and

(4) The lack of sealing along the top edge of the horizontal skirtboard trim.

The manufacturer was required to replace all hardboard siding and replace any other damaged wood and insulation. Complaint closed in 1990.

Example: This home was purchased in 1987. The roof has leaked continuously since the home was installed. There is evidence of water damage and/or stains on both the ceiling and walls over the length of the home.

Most of the stains are along the sidewall, but there are several other stains in other locations, too. The manufacturer replaced half of the roof previously, plus the interior wall board on one wall the full length of the home. The water problems continued and the interior wall board and ceiling are damaged and have mildewed again. The homeowners fear there is wet insulation in both the walls and the ceiling. Complaint is pending.

Example: The home was purchased in 1988. The roof has many deflections along both sides of the home. The home is equipped with "thinking Cap" ventilations and they appear to have become inoperable in the closed position allowing for excessive condensation. It appears this condensation has caused the roof decking to warp and pull away from the trusses.

All shingles and decking must be removed and replaced with new shingles, decking and operable ventilators. Cost of repairs is $1,822.71. Manufacturer is out of business.

Example: The home was purchased in 1987. The half log siding is pulling loose from the wall studs and individual logs are warped. The butt joints at many locations have as much as ¾ inch gaps. The siding in nearly all areas has warped to the extent that there are openings into the sidewalls at the lap joints.

The siding is not sealed adequately at the window and door frame intersections. There were numerous other problems with this home. The homeowners walked away from the home and let the finance company repossess it. The cost of repairs is approximately $3,500-4,900,

Manufacturer is out of business.

The above listed items represent just a few of the items listed on each of the above complaints. They were too numerous to mention. They ranged from no moisture resistant material applied to the floor decking in the utility room, to light fixtures constantly blowing bulbs to doors not properly installed originally.

Homeowners should have consumer protection against defects in the homes they purchase. The current regulations are not strong enough in this area unless a class of homes are involved. The Housing Subcommittee's amendments even further exacerbate the problems. Most of our enforcement in handling consumer complaints is enforced through our state laws and not the Federal regulations.

How affordable is a manufactured home, if after 6 months, 1 year, or even 3 years, homeowners have to spend $2,000-5,000 making repairs to the home due to design or construction problems?

Recently, a finance company called our office asking for our assistance because, again, a homeowner walked away from their home because of the condition of the home. The manufacturer had filed bankruptcy. This agency agreed to pay a contractor $3,680 to repair this home prior to the homeowner allowing the home to be repossessed. The purchase price of the home was $16,000. After paying on the home 2 years, the home was appraised at $5,100. With the repairs our agency agreed to make, the home was valued at $7,900—retail cost.

In the past 2 years this agency has spent approximately $76,631 making repairs to homes after the manufacturers filed bankruptcy. These homes were supposedly built to the Federal standards, but obviously had many design and construction problems. If Arkansas did not have a consumer protection fund available to manufactured homeowners, in many cases, these homes would have gone unrepaired and probably allowed to be repossessed.

I firmly believe the Federal program should be strengthened, not weakened. We should provide better consumer protection, not less. The standards should be updated periodically and safety, durability and quality should be a priority. Comments from homeowners like, "I wonder if this home will last the length of my mortgage" will not be a reality.

Again, there are many quality manufacturers in this industry, but our concern is for the manufacturers who continue to build nonconforming homes, and fail to accept their full responsibility to correct the defects in the home to ensure the buyer has a safe, durable and quality home.

In closing, the States encourage this subcommittee and its members, who will be meeting with members of the House to disregard many of the Housing subcommittee's amendments to title VI and take a closer look at the total program. It is a very convoluted and technical law which requires much thought.

We would hope that the Joint Council on Manufactured Housing which I mentioned above could be reestablished to provide a forum for these discussions on how to improve the Federal Manufactured Home Program.

I have with me to day—I will leave it with you and hope it will be part of the record—the complaints that are mentioned in my written testimony, as well as other complaints.

Thank you.

Senator BRYAN. We will make those part of our record.

Ms. BOWMAN. Thank you.

[Additional material supplied for the record by Mary Beth Bowman follows:]

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director

(501) 371-1641

RECOVERY FUND CLAIM REPORT
(MANUFACTURER)

NAME: William, Jr. & Flaura S. Calvert

ADDRESS: Rt. 6, Box 163-G, N. Little Rock, AR 72118

MANUFACTURER: Crimson Homes (Tidwell Industries)

ADDRESS: P.O. Box 679, Haleyville, AL 35565

DEALER: Hawks Enterprises, (d.b.a.) Odom's Mobile Homes

ADDRESS: P.O. Box 460, Alexander, AR 72002

UNIT SERIAL #: TWILAS-24197 **HUD LABEL #:** DRT055138

DATE OF PURCHASE: 8-29-88 **DATE OF INSPECTION:**

PERSONS PRESENT: Ms. Flaura Calvert (homeowner) Dale Britton, Ricky Wilson, and Carolyn Taylor (friends of the homeowner), Eddie Hawks and Johnny Huffman (representing Hawks Enterprises), Dwight Chandler and Hubbert Sherill (representing Arkansas Transit, Inc.), and Bill White (Inspector, Arkansas Manufactured Home Commission)

ITEMS OF COMPLAINT:

1. There are leaks around both kitchen skylights.

OBSERVATION:

The ceiling around both skylights is stained from water leaks. The homeowner stated there has been seven attempts by various servicemen to stop the leaks, but the leaks continued each time it rained.

The shingles surrounding the skylights have been coated with what appears to be asphalt plastic cement. The possibility exists that the roof mounting flange were dislodged or broken during transit.

CORRECTIONS REQUIRED:

Remove the coated shingles surrounding the skylight and determine the reason for the leaks. If either skylight is broken, replace with a matching skylight. Seal, flash, and secure both skylights to the roof decking and replace the shingles that were removed with new ones of the same color and design.

The bidders must submit their bid for this item based on the three possible conditions that may be encountered as shown below:

BID AMOUNT FOR CORRECTION(S):

1) Remove shingles, seal and secure existing skylights, flash and install new shingles to correct roof leak. $______________

2) All work shown above, plus replacement of one broken or damaged skylight. $______________

3) All work shown above, plus replacement of both broken or damaged skylights. $______________

Note:

The successful bidder must leave the broken or damaged skylights on the premises for inspection by this Agency's staff and notify the writer at the time of the replacement.

2. The ceiling is cracked in several locations.

OBSERVATION:

The most noticeable crack in the ceiling board is at the first truss forward of the wall dividing the dining room and living room. This crack was present before the home was delivered and attempts have been made to patch it on site. The other ceiling board cracks are located:

(a) Around the skylight openings in the kitchen;

(b) At a joint in the dining room (about 4' long);

(c) Between the front door and double windows in the living room on the curbside; and

(d) In the utility room closet.

CORRECTIONS REQUIRED:

Strip and refinish the cracks by taping and covering with sheetrock joint compound. Sand and apply acoustical material to match existing ceiling texture. Paint the ceiling in the area from the rear (master) bedroom door to the front bedroom door. Specifically, the rear hall, kitchen, dining room, living room and front hall ceilings.

BID AMOUNT FOR CORRECTION: $______________

3. The exterior hardboard siding is not properly fastened on the roadside sidewall.

OBSERVATION:

The joints in the hardboard siding do not fall on the wall studs and were not properly fastened when the home was constructed. During the home's delivery to this site, the frame was stressed by accident and portions of the hardboard separated at these joints. Servicemen attempted to renail these joints, but as there are no studs behind the joints, the nails only penetrated the overlapping edges of the siding itself. Many of the nails along the joints can be easily removed by hand. Most of the original fastening is placed too close to the edges of the overlapping section of the siding and the edges are now chipped or broken at fastener locations.

It could not be determined with certainty how many of the hardboard joints do not fall on the studs, but it is known that at least eleven (11) of the twenty (20) joints on the rear door sidewall are not at stud locations. It is most likely that few, if any, of the joints are at the proper locations for adequate fastening. There is also the possibility that the hardboard on the other sidewall and endwalls may be improperly fastened, although this could not be confirmed by visual inspection.

CORRECTIONS REQUIRED:

The hardboard on the rear door (roadside) sidewall must be removed and new hardboard installed so that all vertical lap joints are aligned with the wall studs as required by the hardboard manufacturer's installation instructions. If it is found that some sheets are properly fastened, these sheets may be left in place if they are undamaged. Full length 2" X 4" scab nailers may be used alongside the existing studs, if the nailers are fastened adequately to the studs and bottom plate. The nailers may be used only if the siding joints fall on the nailer to permit the proper fastening.

To properly align and fasten the hardboard, the following preliminary work will be required:

(a) Removal of six windows from the sidewall;

(b) Removal of the rear door;

(c) Removal of the door and trim from the water heater compartment at the rear corner; and

(d) The removal of the 12" wide, hardboard trim strip along the top of the sidewall.

After the hardboard has been properly installed on the sidewall, all of the above components must be replaced. When installing the windows and the door, a minimum 1/2" wide strip of caulking tape must be installed over the line of screw holes on the back side of the mounting flange. In addition, the top edges of the window and door flanges must be caulked with a bead of either latex or silicone sealer after installation. All overdriven nails and open joints in the hardboard trim must be caulked with painter's latex caulk prior to painting.

When all repairs are completed, the new hardboard and trim on the rear sidewall (roadside) must be painted to match the trim and hardboard on the rest of the home. In the event a color match of existing colors is not possible, the contractor should contact this office for approval to repaint the entire home with a color combination suitable to the homeowner. (The bid for this item should include the amount for painting only the reardoor sidewall. The bid will be adjusted for additional painting if necessary.)

It should be noted that the replacement hardboard must be the same type and design as that now on the home.

As a part of the bid for this item of repair, the contractor will be required to check the fastening of the hardboard joints on the rest of the home to determine how many of them also fall off the studs. This may be done by driving a small nail through the hardboard, 1/2" from the edge of the overlap sheet. If a stud is not found at that location, the nail should be driven through the siding 1" from the overlap edge of the overlap sheet. If a stud is not found at that location, the joint should be marked. After all joints have been checked, the contractor must call this Agency and advise the supervisor of the number of siding joints in the other three walls that are defective. All holes in the new and existing must be caulked with latex painter's caulk before the hardboard is painted. If the contractor uses an air driven nail gun, all over-driven nails must also be caulked. The hardboard's installation must conform to the American Hardboard Association's basic application instructions. A copy of these instructions will be furnished upon request by the writer.

BID AMOUNT FOR CORRECTION: $____________

Note:

Please submit your bid for only the repairs indicated on the report. The Commission will consider adjustment of your bid, if additional problems are encountered at the time the repairs are made. You will need to obtain prior approval from the Commission for any additional cost.

Total bid for repairs must include all labor, materials, transportation, and removal of debris due to making the repairs.

All bids for this work must be received in this office by June 18, 1990.

The successful bidder will be required to complete all work within thirty (30) days after the bid has been accepted.

Name of person/company submitting bid

Address

City State Zip Telephone

Bill White
Bill White, AMHC, Inspector

May 23, 1990
Date

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director

(501) 371-1641

SAA INVESTIGATION REPORT

NAME: Lewis Smith

ADDRESS: P.O. Box 671. Monticello, AR 71655

MANUFACTURER: Cappaert Manufactured Housing. Inc.

ADDRESS: P.O. Box 1770, Vicksburg. MS 39180

DEALER: Drew Plaza Mobile Homes

ADDRESS: 448 E. Gaines Street. Monticello, AR 71655

HUD LABEL #: DRT057403 & 404 **UNIT SERIAL #:** CHVM-4588-852
00963 AB

DATE OF PURCHASE: 11-17-88 **DATE OF INSPECTION:** 3-12-90

PERSONS PRESENT: Lewis Smith (homeowner), Betsy Thompson and Wayne Bostain (representing Drew Plaza Mobile Homes), Larmar Roberts and Jim Loggins (representing Cappaert Manufactured Housing, Inc.), Mary Beth Bowman and Bill White (Director and Supervisor, respectively, Arkansas Manufactured Home Commission)

SET-UP AND ANCHORING:

A complete inspection of the installation was not done. The home's support piers are installed on poured concrete ribbons which are perpendicular to the frame and extend to the sidewalls. The poured footings are spaced approximately 8 feet apart. The average width of the foundations appear to be about 18". The I-beam pier spacing appears to meet the requirements of the manufacturer's footing schedule on page 5 of the Installation Instructions. This opinion is based on the following data and/or estimates of the relevant factors:

a. Estimate of the soil bearing capacity at the site;

b. Width of the home:

c. The inclusion of the fact the home has a roof overhang:

d. The estimated proportionate area of each poured footing at each pier location under the I-beams, (footing assumed to be at least 4" thick as normally required by dealer); and

e. The manufacturer's stated minimum pier capacity for the pier spacing under the I-beam of this unit.

It was not determined if the support piers were installed under the marriage line at the required locations and actually load bearing.

There were support piers installed under each side of both exterior doors.

The home is adequately anchored with four frame anchors per side.

OTHER OBSERVATIONS RELATED TO INSTALLATION:

The home is underpinned with vinyl skirting which has five, full length, perforated ventilation panels per side and four/five per end. The ground under the home is covered with a polyethylene vapor barrier. There is some water pooling on the upper surface of the ground cover which indicates more ventilation may be required to control the moisture under the home. The homeowner should inspect the clothes dryer exhaust system to be sure it does exhaust to the exterior of the home. The crossover heating duct appeared to be lying on the ground cover. The manufacturer recommends the duct be strapped to the underside of home to prevent it from coming in contact with the ground. (Although it is not in contact with the ground, the moisture accumulation on the surface of the polyethylene will also adversely affect the duct.)

ITEMS OF COMPLAINT:

1. The roof and ceiling are sagging.

OBSERVATIONS:

The roof decking is warped between trusses over a large part of the rear half. The same condition exists on the front half, but is not as pronounced. The differences in the surface plane of the roof on the rear half is as much as 3/4" per 4' in some locations and averages about 1/2" per 4' over the areas of warping.

According to Mr. Smith, the homeowner, and Mr. Bostain, Drew Plaza's serviceman, the condition of the roof has improved since the addition of roof vents on January 12 of this year. The vents were installed by Drew Plaza's service staff and were reportedly supplied and/or paid for by Cappaert Housing. Mr. Bostain stated that at the time of the roof vents installation, the underside of the roof decking was coated with water. Prior to the installation of the roof vents, the only ventilation afforded the roof cavity (or attic) was a continuous. ribbon opening in the soffit of both sidewall, roof overhangs.

The ceiling board inside the home was sagging between trusses as much as 5/8". The entire ceiling was affected to some degree with an average deflection of approximately 1/2" between trusses.

DISCUSSION/CONCLUSIONS:

It is apparent that the condition of the roof and ceiling at the time of the homeowner's complaint was the result of inadequate ventilation of the roof cavity (attic). The lack of actual through-ventilation caused an undue build-up of heated air in the attic during the day. This in turn allowed the moisture content of the air to be elevated due to the warmer air's ability to draw and hold moisture from the cooler air outside the soffit. During the cooler part of the day, the heated and moisture laden air was unable to reach an equilibrium in humidity with the outside air before it reached its dew point temperature and condensation occurred on the underside of the roof decking.

This excessive build-up if moisture and heat caused sweiling and expansion of the roof decking that resulted in the deformation of the roof surface. These conditions were also responsible for the deformation of the ceiling board.

One factor contributing to the lack of ventilation is thought to be the lack of free air space opening through the solid, continuous ridge beam. During the inspection, Mr. Roberts displayed drawings of the ridge beam's construction details which showed only two openings (at opposite ends of the ridge beam and each about 6" square) for air circulation between halves of the home. Even with much larger openings, there would be no effective ventilation of the roof cavity until ventilation ports of some type were installed in the higher elevations of the roof to induce convection air currents.

One other factor may also be involved in the roof decking's deformation, which could not be confirmed by visual observation. The independent movement of the separate sheets of roof decking when being walked on, indicates there may not be decking clips installed along the edges of the decking between trusses.

Cappaert's representative, Mr. Larmar Roberts, acknowledged during the inspection, the manufacturer's responsibility for repairs to the home. In subsequent phone conversations and correspondence, Mr. Roberts also confirmed the manufacturer's intentions to correct these problems by appropriate repair methods.

The adequacy of the repair methods and the repairs themselves are subject to review by this Agency in its capacity as the SAA for the State of Arkansas.

DETERMINATION:

Manufacturer's responsibility

Note:

References for the determinations of responsibility for corrections and/or repairs to resolve the above described complaints include:

1) Part 3280, Federal Manufactured Home Construction and Safety Standards.

2) Part 3282, Federal Manufactured Home Procedural and Enforcement Regulations.

3) Act 419 of 1977 as amended [A.C.A. Section 20-25-101 with specific reference to: Section 20-25-110. "Warranty"], and the Arkansas Manufactured Home Commission's Rules and Regulations.

The corrections and/or repairs must be completed within twenty (20) days after receipt of this report or written notice of appeal of the determinations must be filed with the Arkansas Manufactured Home Commission within the same twenty (20) day period.

Bill White
Bill White, Inspector, AMHC

4-13-90
Date

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director

(501) 371-1641

MANUFACTURERS CLAIM ESTIMATE

NAME: Mr. Charles Waggoner

ADDRESS: Rt. 3 #1 Spillyard Lane, Sheridan, AR 72150

MANUFACTURER: Sunrizon Homes, Inc.

ADDRESS: 1106 N. Temple Dr., Diboll, TX 75941

DEALER: Varco Mobile Homes, Inc.,

ADDRESS: 1414 E. Harding, Pine Bluff, AR 71601

HUD LABEL #: TEX428248&49 **UNIT SERIAL #:** 7160

DATE OF PURCHASE: 4-25-88 **DATE OF INSPECTION:** 3-28-89

PERSONS PRESENT: Mr. Charles Waggoner, (owner) and Mr. Steve Gothard (Arkansas Manufactured Home Commission Inspector).

SET-UP AND ANCHORING: See SAA Investigation Report

ITEMS OF COMPLAINT: **ESTIMATES**

1. The acoustical ceiling material has cracked along the butt seams every four (4) feet throughout the home.

   SUGGEST: Remove the acoustical ceiling material and joint tape from the affected seams. Install new seam tape to the seams. Re-blow the entire ceiling being sure to match the color and texture of the existing ceiling.

   ESTIMATED COST OF REPAIR: ______________
   STD. Ref. 3280.305(b)(h)
   3280.303(b)

2. The consumer indicated that the floors in the kitchen and dining room were uneven and squeaked when walked on. No squeak was observed when the floor was walked on by this inspector. A 6' level was placed on the kitchen floor at several locations and no discernable deflection of the floor decking was noted.

NO FURTHER ACTION REQUIRED

3. The rear exit door does not seal flush with the door frame.

   SUGGEST: Take the rear exit door's metal door frame loose and reinstall so the door will close flush within the door frame being sure to seal the metal door frame flanges with a weather resistant latex caulking.

   ESTIMATED COST OF REPAIR: ________________
   STD Ref. 3280.505(e)
   3280.307(a)

4. The consumer indicated that some of the windows were hard to open. Several windows were opened and closed. All operated in an acceptable manner.

   NO FURTHER ACTION REQUIRED

5. The consumer indicated that the carpet was loose in several areas. Carpet is a nonstructural cosmetic item and will not be addressed in this report.

   NO FURTHER ACTION REQUIRED

MANUFACTURER'S CLAIM ESTIMATE Page three
WAGGONER

TOTAL ESTIMATED COST OF REPAIRS: ______________

Note: Total estimated cost of repairs must include all labor materials, and transportation, and removal of any trash due to making the repairs.

____
Name of person/company giving estimate

____
Address

____
City State Zip Telephone #

Steve Gothard, MB
Mr. Steve Gothard, Inspector, AMHC

5-1-89
Date

ARKANSAS MANUFACTURED HOME COMMISSION
401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director
(501) 371-1641

847-3562
Home

SEP 2 1989

MANUFACTURER'S CLAIM ESTIMATE

NAME: Norman & Glenna Pickard

ADDRESS: #5 Tomahawk, Alexander, AR 72002

MANUFACTURER: Cameo Energy Homes/Sunrizon

ADDRESS: P.O. Box 1270, Big Springs, TX 79721-1270

DEALER: Modern Homes

ADDRESS: #9 I-30, Alexander, AR 72002

HUD LABEL #: TEX 413177 UNIT SERIAL #: 501-06868

DATE OF PURCHASE: 3-28-88 DATE OF INSPECTION: 3-8-89

PERSONS PRESENT: Mrs. Glenna Pickard (owner), Richard Myers (President, Modern Homes), and Tim Dooley (Arkansas Manufactured Home Commission inspector).

SET-UP AND ANCHORING:

1. The unit was fully skirted and had the proper venting installed in the skirting. The skirting was installed by the consumer.
2. There was no ground cover installed.
   Note: Sunrizon's installation instruction guide recommends that the ground surface under your home be covered with 6 mil visqueen, rolled roofing or equivalent to resist ground moisture. We suggest that the consumer install ground cover under their home.

   All other areas of the set-up and anchoring complied with the Arkansas Manufactured Home Commission regulations.

ITEMS OF COMPLAINT:

1. Plaster cracks in ceiling throughout house.

   OBSERVED: Blown acoustical ceiling has eleven (11) cracks throughout the home. The crack in the living room appeared to be a result of the truss not being above the ceiling board joint. There were observed three (3) cracks in the living room, one (1) in the kitchen, one (1) in the master bedroom, two (2) in the hall, one (1) in the center bedroom and three (3) in the front bedroom.

MANUFACTURER'S CLAIM ESTIMATE Page two
PICKARD

SUGGEST: Secure ceiling board in living room. Remove the acoustical ceiling material from the affected areas. Retape the affected seams. Reapply acoustical ceiling material to the affected areas. Repaint ceiling throughout the home except for master bedroom. In the master bedroom it is suggested to blend the repair in the bedroom entry area to match the rest of the room.

ESTIMATED COST OF REPAIR: $575.00

2. Roof buckled.

OBSERVED: The roof was wavy on the back half of the curbside half of the home and along the full length of the roadside. There appeared to be deflection of up to three (3) inches allowing ponding of water on the roof. The wavy areas were more prevelant at the peak.

SUGGEST: Remove shingles and decking and replace with similar quality materials.

ESTIMATED COST OF REPAIR: 7/16 Blandex $~~2960~~.00 adj 2730.00 Dennis Winter
1/2 Ply Wood $160.00

3. Windows in the master bedroom won't open.

OBSERVED: Two (2) windows in the master bedroom would not open. One (1) on the roadside of the home and one (1) on the curbside toward the front of the home.

SUGGEST: Remove windows. Realign and replace windows.

ESTIMATED COST OF REPAIR: $100.00

TOTAL ESTIMATED COST OF REPAIR: $3,405.00 Dennis Winter
$~~3635~~.00

With Ply Wood $3,795.00

Tim Dooley, AMHC Inspector

3-9-89
Date

MANUFACTURER'S CLAIM ESTIMATE
PICKARD

Page three

Dennis Winters
Branch Hollow M.H.P.
847-3743

Name of person/company giving estimates

[illegible]

Address

[illegible]

City State Zip Telephone

Note: Total estimated cost of repairs must include all labor, materials, transportation, and removal of any trash due to making the repairs.

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director

(501) 371-1641

MANUFACTURERS CLAIM ESTIMATE

NAME: Mr. Larry Adams

ADDRESS: P.O. Box 155, Ulm, AR 72170

MANUFACTURER: Sunrizon/Cameo Energy Homes

ADDRESS: P.O. Box 1270, Big Springs, TX 72721

DEALER: Varco Mobile Homes, Inc.

ADDRESS: 1414 E. Harding, Pine Bluff, AR 71601

HUD LABEL #: TEX431838&39 **UNIT SERIAL #:** 7245 A/B

DATE OF PURCHASE: 6-9-88 **DATE OF INSPECTION:** 2-20-89

PERSONS PRESENT: Ms. Larry W. Adams (owner), Mr. Farris Madison (representing Varco Mobile Homes, Inc.), Steve Gothard (Arkansas Manufactured Home Commission inspector).

SET-UP AND ANCHORING: See SAA Investigation.

ITEMS OF COMPLAINT: **ESTIMATES**

1. The acoustical ceiling material has cracked along the butt seams in the following locations.

   (1) In the kitchen between the skylights.
   (2) In the middle of the living room.
   (3) In the middle of the dining room on the left side of the ceiling light.
   (4) In the rear bedroom near the rear endwall.
   (5) In the rear bathroom near the front interior wall.
   (6) In the right front bedroom near the closet.

   SUGGEST: Remove the acoustical ceiling material from the affected areas. Remove the old seam tape. Re-apply new seam tape. Re-apply new acoustical material to the affected areas being sure to match the existing ceiling texture and color.

   ESTIMATED COST OF REPAIR: ____________
   STD. Ref. 3280.305(h)

2. The reflective materials on the back side of the mirrors in the rear bathroom has detached from the surface of the mirrors.

   SUGGEST: Remove the cosmetic trim from around the 32" x 42" mirrors, and replace the mirrors. Re install the new mirrors, and replace the cosmetic trim around the mirrors.

   ESTIMATED COST OF REPAIR: ____________
   STD. Ref. 3280.303(b)

3. The faucet on the left vanity sink in the rear bathroom does not have a connecting ire between the faucet housing and the sink stopper. This will not allow the built-in stopper to function as intended.

   SUGGEST: Replace the existing faucet with a new one of the same type.

   ESTIMATED COST OF REPAIR: ____________
   STD. ref. 3280.303(b)

4. The double spot light in the living room will not turn on when the switch is moved to the "on" position.

   SUGGEST: Rewire the switch or light fixture as needed.

   ESTIMATED COST OF REPAIR: ____________
   STD. Ref. 3280.810(d)

5. The thermal pane sliding glass door in the dining room fogs up between the glass panes.

   SUGGEST: Reseal the glass panes around the glass to metal door frame connections with a clear weather resistant caulking material.

   ESTIMATED COST OF REPAIR: ____________
   STD. Ref. 3280.303(b)

6. There were two (2) areas of the roof decking that have bowed 1/2" to 3/4". One 1' x 3' area is located on the front roof decking approximately 3' from the right edge of the dormer and half way up the roof. The second area is located on the back side of the roof approximately half way up the roof on the rear one-third. This area is 3' x 4' in size.

SUGGEST: Resecure the roof decking to the rafters by nailing down through the shingles into the decking and the top cord of the rafter with 10 d nails as needed. The head of the nails should be covered with an asphalt type sealer.

ESTIMATED COST OF REPAIR: ____________
STD. Ref. 3280.305(b)(h)

7. Some of the staples used to secure the shingles to the roof decking were installed 1/8" to 1/4" high. Approximately 30 staples were observed.

SUGGEST: Loosen the seal tabs on the shingles installed over the affected staples, and carefully lift the shingle up. Resecure the high staples to the proper depth, and place the cover shingle back over the stapled area.

ESTIMATED COST OF REPAIR: ____________
STD. Ref. 3280.305(h)(2)
3280.307(a)

TOTAL ESTIMATED COST OF REPAIRS: ____________

Steve Gothard
Steve Gothard, Inspector. AMHC

2-21-88
Date

____
Name of person/company giving estimate

____
Address

____
City State Zip Telephone#

NOTE: Total estimated cost of repairs must include all labor. materials, and transportation, and removal of any trash due to making the repairs.

ARKANSAS MANUFACTURED HOME COMMISSION
401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

GREAT SEAL OF THE STATE OF ARKANSAS

Mary Beth Bowman
Director
(501) 371-1641

RECEIVED
FEB 16 1989
Arkansas
Manufactured Home Commission

MANUFACTURER'S CLAIM ESTIMATE

NAME: Mr. Robert Misemer

ADDRESS: 200 E. Coffelt Rd. #37, Jacksonville, AR 72076

MANUFACTURER: Brookside Homes, Inc.

ADDRESS: P.O. Box 887, Winfield, AL 35594

DEALER: Lochridge Homes, Inc.

ADDRESS: 8550 Landers Rd., North Little Rock, AR 72117

HUD LABEL #: DRT049538 **UNIT SERIAL #:** AL-B-8-313

DATE OF PURCHASE: 4-11-88 **DATE OF INSPECTION:** 1-18-89

PERSONS PRESENT: Mr. & Mrs. Robert Misemer (owners), Steve Gothard (Arkansas Manufactured Home Commission inspector).

SET-UP AND ANCHORING:

ITEMS OF COMPLAINT:	**ESTIMATES**

1. The fireplace leaks when it rains. The water comes down the flue stack.

   SUGGEST: Reseal the flue vent stack and the metal splash ring with a weather resistant latex caulking.

   ESTIMATED COST OF REPAIR: $20.00
   STD. Ref. 3280.709(g)
   3280.303(b)

2. The starter course of shingles were not installed off-set as required by the shingle manufacturer's installation instructions. This allows moisture to run down the slots of the shingles and onto the roofing felt.

SUGGEST: Reinstall a new starter course of shingles along both long edges of the roof, being sure to off-set the shingles per the manufacturer's installation instructions.

ESTIMATED COST OF REPAIR: $65.00
STD. Ref. 3280.305(h)(2)
3280.307 (a)

3. The range vent stack was bent during transit and in its present condition will allow moisture to enter the vent stack.

SUGGEST: Remove the damaged vent stack and install a new one, being sure to seal the vent stack to roof connection with an asphalt type sealer.

ESTIMATED COST OF REPAIR: $50.00
STD. Ref. 3280.305
3280.303(b)

4. The dishwasher was not secured to the kitchen base cabinet at the top, (holes are provided) and the dishwasher tips forward when loaded.

SUGGEST: Secure the dishwasher at the top with two (2) 1/4" X 1/2" wood screws.

ESTIMATED COST OF REPAIR: $35.00
STD. Ref. 3280.303(b)

5. The double french doors to the master bedroom have a very poor quality paint applied to them. The paint has runs and bare spots.

SUGGEST: Strip the existing paint from the door and repaint both doors.

ESTIMATED COST OF REPAIR: $60.00
STD. Ref. 3280.303(b)

6. There is no door to the utility room. A door was paid for and it was noted on the contract.

SUGGEST: Install a standard interior type door between the kitchen and the utility room.

ESTIMATED COST OF REPAIR: $95.00
STD. Ref. 3280.303(b)

7. Numerous sheets of vinyl gypsum wall paneling throughout the unit were not secured to framing members in the middle section of the paneling. The panels are located in the following locations:

   A. Behind the toilet in the front bathroom;
   B. On the side wall in the front hall;
   C. On the living room curbside sidewall (2 locations);
   D. Under the hutch in the dining room;
   E. In the utility room between the wall cabinets;
   F. In the rear bedroom on the curbside sidewall;
   G. In the rear bathroom over the vanity sink;
   H. Behind the toilet in the rear bathroom; and
   I. On the rear endwall on the right side of the toilet.

   SUGGEST: Resecure the paneling to the framing studs with staples spaced 6" apart.

   ESTIMATED COST OF REPAIR: $45.00
   STD. Ref. 3280.305(b)
   3280.303(b)

8. The front bathroom tub's water lines leaked and the water stained the wall paneling in the front bedroom. There were two areas that were stained. There was a 3' X 4' area along the floor line on the curbside interior wall and a 3' X 5" area along the floor line on the front endwall.

   SUGGEST: Replace the wall paneling in the affected areas, or add a wainscot overlay to the walls.

   ESTIMATED COST OF REPAIR: $55.00
   STD. Ref. 3280.303(b)

9. A hole for a floor vent was cut in the front bedroom floor. The hole was patched, and the patch had sagged 1/2" to 3/4".

   SUGGEST: Take the carpet loose. Remove the patch, install the proper cross bracing and reinstall the patch, then reinstall the carpet.

   ESTIMATED COST OF REPAIR: $45.00
   STD. Ref. 3280.305(g)

10. The water lines to the utility room washer faucets are reversed.

    SUGGEST: Take the water lines loose and reinstall them on the proper sides.

    ESTIMATED COST OF REPAIR: $5.00
    STD. Ref. 3280.303(b)

11. There are no vent covers for the ceiling vent fans in the front and rear bathrooms.

    SUGGEST: Install two (2) ceiling fan vent covers. One cover should be installed on the front bathroom and another on the rear bathroom fan.

    ESTIMATED COST OF REPAIR: $25.00
    STD. Ref. 3280.303(b)

12. The rear bathroom door trim has split at the top. The split was caused by the trim being installed over the top edge of the door. When the door is opened it hits the trim.

    SUGGEST: Replace the top door trim being sure to place it so that the door will not engaged it.

    ESTIMATED COST OF REPAIR: $20.00
    STD. Ref. 3280.303(b)

13. Six (6) of the ceiling light fixtures did not have light shades.

    SUGGEST: Install six (6) light shades.

    ESTIMATED COST OF REPAIR: $60.00
    STD. Ref. 3280.303(b)

14. The vinyl floor covering in the kitchen and dining room areas are of a non-adhesive type and have stretched in several locations. The stretched areas have buckled and will not lay flat.

    SUGGEST: Remove the existing floor covering in the kitchen and dining rooms (16' X 20') and replace with an equivalent floor covering.

ESTIMATED COST OF REPAIR: 595.50
STD. Ref. 3280.305(g)
3280.303(b)

TOTAL ESTIMATED COST OF REPAIRS: 1,175.50

STEVE GOTHARD
Steve Gothard, Inspector, AMHC

1-27-89
Date

Ken Barnes / KB's Escort + Mobile Home Service
Name of person/company giving estimate

Rt 5 Box 6134
Address

Benton Ar. 72015 - 501-794-1728
City State Zip Telephone#

NOTE: Total estimated cost of repairs must include all labor, materials, and transportation, and removal of any trash due to making the repairs.

834-4282

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

GREAT SEAL OF THE STATE OF ARKANSAS

Mary Beth Bowman
Director

(501) 371-1641

MANUFACTURER'S CLAIM ESTIMATE

NAME: Bill Blevins

ADDRESS: Rt. 1. Smithville. AR 72466

MANUFACTURER: Brookside Homes, Inc.

ADDRESS: County Rd. 63, Winfield, Al 35594

DEALER: Frank Foll, Inc.

ADDRESS: #50 Mt. View Rd., Locust Grove, AR 72550

HUD LABEL #: DRT049542&43 UNIT SERIAL #: 8-318-A/B

DATE OF PURCHASE: 5-19-88 DATE OF INSPECTION: 2-28-89

PERSONS PRESENT: Mr. Bill Blevins (owner), Steve Gothard (Arkansas Manufactured Home Commission inspector).

SET-UP AND ANCHORING: See SAA Investigation

ITEMS OF COMPLAINT: ESTIMATES

1. The fascia board on the front edge of the roof dormer is cut 1" to 1 1/2" short at both ends.

   SUGGEST: Replace the two (2) 6" X 12' fascia boards with new fascia boards of the same type and color.

   ESTIMATED COST OF REPAIR: 30.00
   STD. Ref. 3280.303(b)
   3280.307(a)

2. There was no cap trim on the left lower edge of the garden tub.

   SUGGEST: Install one (1) piece of 2" X 2' plastic cap trim to the lower left edge of the garden tub.

   ESTIMATED COST OF REPAIR: 45.00
   STD. Ref. 3280.303(b)

3. The hot and cold water lines to the vanity sink in the rear bathroom are reversed.

   SUGGEST: Take the water lines loose and reinstall them to the proper connections.

   ESTIMATEED COST OF REPAIR: 10.00
   STD. Ref. 3280.303(b)

4. Three (3) light fixtures did not have light shades.

   SUGGEST: Install three (3) light shades.

   ESTIMATED COST OF REPAIR: 40.00
   STD. Ref. 3280.303(b)

5. The rear door is bowed and will not seal flush with the door frame. This is allowing air infiltration around the door.

   SUGGEST: Replace the rear door with one of the same quality being sure to seal the door frame with latex caulking.

   ESTIMATED COST OF REPAIR: 200.00
   STD. Ref. 3280.303(b)
   3280.505(a)
   3280.307(b)

6. The floor covering on the kitchen floor is cut in several locations. The cuts are up to 3" long.

   SUGGEST: Replace the 12' X 18' 6" floor covering in the kitchen area with new floor covering of the same quality.

   ESTIMATED COST OF REPAIR: 210.00
   STD. Ref. 3280.303(b)

535.00
350.00 [illegible]

TOTAL ESTIMATED COST OF REPAIR: total 885.00

MANUFACTURER'S CLAIM ESTIMATE
BLEVINS

Page three

Steve Gothard
Steve Gothard, Inspector, AMHC

3-1-84
Date

T G Blevins
Name of person/company giving estimate

Route
Address

~~[illegible]~~ Strawberry
City

AR
State

72469
Zip

5283570
Telephone#

TOTAL ESTIMATED COST OF REPAIRS:

NOTE: Total estimated cost of repairs must include all labor, materials, and transportation, and removal of any trash due to making the repairs.

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director

(501) 371-1641

SAA INVESTIGATION

NAME: James & Shelley Evans

ADDRESS: Star Route 10, Box 315A, Hot Springs, AR 71909

MANUFACTURER: Indies House, Inc.

ADDRESS: P.O. Box 190, Hackleburg, AL 35564

DEALER: Champagne Mobile Homes, Inc.

ADDRESS: 706 E. Grande Ave., Hot Springs, AR 71901

HUD LABEL #: DRT050290&91 **UNIT SERIAL #:** AL2860-I884692AB

DATE OF PURCHASE: 4-25-88 **DATE OF INSPECTION:** 3-22-89

PERSONS PRESENT: Mr. & Mrs. Evans (homeowners), and Bill J. White (Arkansas Manufactured Home Commission inspector).

SET-UP AND ANCHORING: The initial SAA Investigation Report dated 12-22-88 addressed the set-up and anchoring and the original report is consistent with the findings of this inspection. One item of concern not noted on the initial SAA report is the cross-over duct on the hitch end lying on the ground. According to the homeowner, the duct is an additional cross-over installed by the factory repairmen to remedy air distribution problems in the home.

The manufacturer's installation and set-up instructions require that the cross-over ducts be suspended above the ground.

MANUFACTURER'S RESPONSIBILITY

ITEMS OF COMPLAINT:

1. The roof leaks in several locations.

   OBSERVATIONS: There are several areas of the home that show evidence of water infiltration and it appears the water is entering the interior of the home through the roof. At the time of the inspection the carpet at the base of the front sidewall sections on both sides of the

SAA INVESTIGATION
EVANS

living room double windows were wet. The c
wet along the rear sidewall between the pat
the fireplace. (The location of the home r
1/2" to 1" of rain two nights prior to this

The most likely source of the leak in the a
window is the shingle installation in the v
either side of the dormer. The walls at t
the wet carpet is in a recessed porch area
overhang is enough to preclude the possibi
entering around the double windows. The s
cover the dormer valleys are erratically i
some roofing tacks have been used in the v
heads of the tacks exposed. The shingle p
the valleys makes this area suspect for le
The most probable cause of the leak on the
the improper installation of the metal fla
fireplace chimney. The flashing is not i
accordance with the manufacture's instruc
the flashing is installed on top of the s
sloping edges are not sealed and water mi
unsealed areas under the flashing at the
points.

There have been leaks around the skylight
and attempts have been made to seal them
There are water stains and rusted staples
part of the kitchen side of the wall divi
room and kitchen. The owner stated the
occurred after the repairs to the skylig
Inspection of the skylights showed moist
the inside, bottom of the clear plastic
indicating possible leakage at the skyli
living room. The areas of water infiltr
above are most likely related to the ori
construction of the home. Nails used fo
installation are exposed in several plac

MANUFACTURER'S RESPONSIBILITY

2. The roof ridge cap leaks along the marr

OBSERVATIONS: There are several areas
marriage wall that shows evidence of wa
Other areas along the marriage wall rep
leaking showed no direct evidence of le
homeowner's statement that he could hea
falling into the ceiling and wall cavit
Inspection of the ridge cap installati
metal flashing supplied by the manufac

installed with exposed sections about 1" wide between each 12" section of shingle that overlays the metal. The ridge cap of shingle tabs is continuous but the flashing installation may be allowing rainwater to be blown underneath the flashing or underneath the ridge cap shingles and into the roof cavity by way of the nail holes in the flashing.

The obvious areas of water infiltration at or near the marriage wall are:

1. The wall inside the utility room at the corner of the marriage wall and the rear hallway:
2. The ceiling of the rear hallway: and
3. On the ceiling of the master bathroom about 3' in front of the shower (the homeowner reports hearing water dripping into the wall or ceiling cavity in this area during rains and has seen water on the floor on either side of the doorway to the master bathroom).

These areas of reported leaks have been subjected to repair efforts in the past although it appears that these efforts were not successful. It may require the removal of the ridge row and new installation according to the manufacturer's recommendations to solve the leak problem along the marriage wall.

DEALER'S RESPONSIBILITY

3. Other areas of the ceiling are discolored from possible roof leaks.

OBSERVATIONS: The following areas were reported by the homeowners to have discolored or blemished ceiling board caused by roof leaks:

1. Two round, flat protrusions, about the size and thickness of a dime and nickel respectively, near the ceiling fan in the living room;
2. Discoloration along the front endwall between the two windows and along the front sidewall over the window in the master bedroom:
3. Discoloration along the rear endwalls in both rear bedrooms: and
4. Discoloration near the center of the room in the rear bedroom, back half.

These areas were inspected and the writer was not able to determine the cause of the ceiling board imperfections and was not able to visually confirm significant discoloration in the other areas. The attic over the bedrooms should be inspected by removing the upper panel of the exterior marriage wall trim on either end of the home to determine if there are leaks in these areas.

MANUFACTURER'S RESPONSIBILITY

4. The roof sags over the rear half of the great room.

OBSERVATIONS: There is deflection in the roof over the area but it appears from measurements taken with the use of a string line the wall between the living room and the master bathroom is about 3/4" higher than the rest of the support structure for the rear half. This difference in height causes the sag to be more noticeable in the area described. The measured deadload deflection in the roof across the length and width of the home did not exceed 1" over the length of the home nor 3/8" from the marriage line to the rear sidewall. Although this variation in height is unsightly, there does not appear to be structural weakness in the construction and, at present, the deflection in the roof does not appear to be in violation of part 3280, Manufactured Home Construction and Safety Standards.

NO DETERMINATION

5. The floors are not even across the marriage line.

OBSERVATION: There appears to be about 1/8" relative displacement of the floor across the marriage line at one area of the living room and in the doorway to the master bathroom. It is the writer's experience and opinion that any attempt to improve this fit would be counter productive. Although the floors are not perfectly even at this point, the condition does not appear to justify releveling of the home.

NO FURTHER ACTION REQUIRED

Bill J. White
Bill J. White, Inspector, AMHC

March 29, 1989
Date

ARKANSAS MANUFACTURED HOME COMMISSION
1022 HIGH STREET, SUITE 505
LITTLE ROCK, ARKANSAS 72202
TELEPHONE 501-371-1641

SAA INVESTIGATION

NAME: Jerrie & Don Wall

ADDRESS: Route 4, Box 811, White Hall, AR 71602

MANUFACTURER: Connell Industries

ADDRESS: ~~P.O. Box 340, Winfield, AL 35594~~ PO Box 243, Phil Campbell, AL 35581

DEALER: Johnny Reed Mobile Homes, Inc.

ADDRESS: 6001 Dollarway Road, Pine Bluff, AR 71602

HUD LABEL #: DRT002072 **UNIT SERIAL #:** 0295

DATE OF PURCHASE: 07/05/84 **DATE OF INSPECTION:** 09/18/86

DATE COMPLAINT RECEIVED BY THE COMMISSION: 8/25/86

PERSONS PRESENT: Mr. & Mrs. Wall, Owners; Mr. Doug Page, Connell Industries Service Representative; Mr. Johnny Reed, Dealer; and Ms. Mary V. Hull, Inspector, Arkansas Manufactured Home Commission.

SET-UP AND ANCHORING: The home appeared to be level and pier construction met the requirements of Section XVIII of the Arkansas Manufactured Home Commission Rules and Regulations. However, the piers placed just ahead of the front axle on both the curbside and roadside I-beam were up to 12' from the preceding set of piers. The regulations require the placement of piers directly under the main frame I-beams, not more than ten (10) feet apart.

DEALER'S RESPONSIBILITY

ITEMS OF COMPLAINT:

1. The walls are buckling:

   OBSERVATION: The interior wallboard on the roadside sidewall the entire length of the unit had deflections of up to 1 1/2" between the sidewall framing members (studs). Less severe deflections existed on the curbside sidewall interior wallboard.

Factors and conditions observed which may have contributed to the buckling wallboard include:

A. Failure of the manufacturer to install the exterior hardboard siding in accordance with the siding manufacturers installation instructions, i.e., numerous exposed, overdriven, and unsealed fasteners were observed.

3280.504(a)
ext wall
air-
combn

MANUFACTURER'S RESPONSIBILITY

B. Possible failure of the manufacturer to provide moisture protection equivalent to a vapor retarding system having a rating of one (1) perm or less installed on the warm living side of the wall insulation.

MANUFACTURER'S RESPONSIBILITY

NOTE: It appeared unfaced fiberglass batts were installed in the sidewalls. Vinyl covered gypsum or paneling, if approved, is considered an effective vapor retarding system.

C. The wall framing members were constructed 24" o.c. No nonconformance to the Federal Manufactured Housing Construction Codes and Safety Standards was observed.

NO DETERMINATION

2. The masonite siding is pulling away.

OBSERVATION: The exterior siding was not adequately treated to resist wind, snow and rain. (See Item #1).

3. The roof is damaged.

OBSERVATION: A section of the metal roof at the rear curbside corner of the unit appeared to have been overlayed or patched. A seam in the metal from the curbside eave to the peak of the roof between standing seams was secured with metal screws and sealed with caulk. Although no roof leaks had occurred, the repair method observed was not in accordance with the roofing manufacturer's installation instruction and/or the DAPIA approved drawing regarding the method of installation and specifications of the material used. In addition, the roofing membrance (metal) in the area of repair did not appear to be of sufficient rigidity to prevent deflection, which would permit ponding of water or separation of seams due to wind, snow, ice, or transportation forces.

MANUFACTURER'S RESPONSIBILITY

Other defects observed:

1. The exhaust duct for the clothes dryer terminated beneath the home.

   ~~MANUFACTURER~~'S RESPONSIBILITY
   Dealer's Ⓗ

2. The interior wallboard adjacent to the curbside master bedroom double windows was inadequately fastened to the stud.

   MANUFACTURER'S RESPONSIBILITY

3. Some crowning and buckling had occurred in the rear bathroom decking. Crowning of the kitchen decking was also observed.

   MANUFACTURER'S RESPONSIBILITY

4. The carpet had pulled away from the base of the master toilet. This item of complaint is not covered by the Federal Manufactured Housing Construction Code and Safety Standards.

   NO DETERMINATION

5. The exterior mini gutter failed to drain properly. The gutter was punctured in random locations to allow drainage. The method of repair used was not in compliance with the product installation specifications.

   MANUFACTURER'S RESPONSIBILITY

6. A fire occurred in the rear bedroom of the unit, August 2, 1986. The fire appeared to have originated in the curbside closet sidewall.

NO DETERMINATION POSSIBLE

Mary V. Hull by lj 9-22-86
Mary V. Hull, Inspector, AMHC Date

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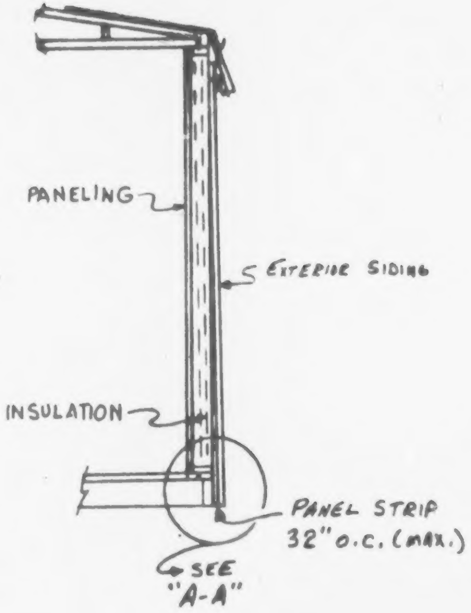
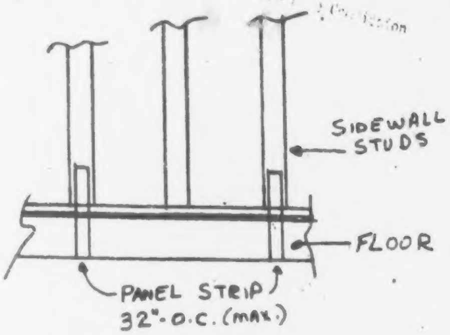

PANELING
EXTERIOR SIDING
INSULATION
PANEL STRIP
32" o.c. (max.)
SEE "A-A"


SIDEWALL STUDS
FLOOR
PANEL STRIP
32"-o.c. (max.)

SIDE VIEW - "A-A"

Federal Manufactured Housing
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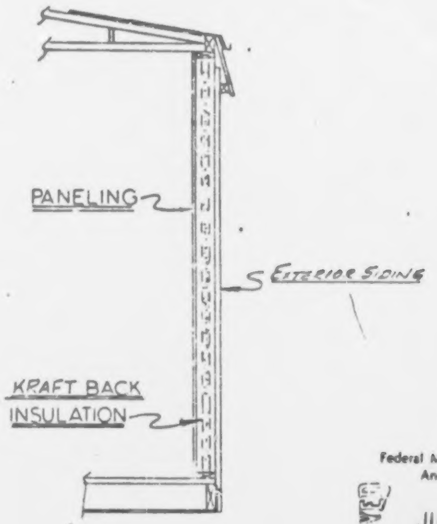
32 014

Federal Mobile Home Construction
And Safety Standards
JAN 17 1984

CONNELL IND., INC. - McFIELD, Al.

Connell Ind., Inc.
P. O. Box 249
Winfield, AL. 35594


PANELING
EXTERIOR SIDING
KRAFT BACK INSULATION

Federal Mobile Home Construction
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Federal Manufactured Housing
Construction and Safety Standards
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	BY	DATE	LAWRENCE CONSTRUCTION & DEVELOPMENT, INC. WINFIELD, AL.			
DRAWN	[illegible]	[illegible]	TITLE	NO.	REV.	SHEET
CHECKED		-				
SCALE NTS -			TYPICAL NON-VENTILATED EXT. WALL	C8-004		2 of 2

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue. Suite 440
First Federal Plaza
Little Rock. Arkansas 72201

Mary Beth Bowman
Director

(501) 371-1641

SAA INVESTIGATION

NAME: Jerri & Don Wall

ADDRESS: Rt. 4. Box 811, White Hall. AR 71602

MANUFACTURER: Connell Industries

ADDRESS: P.O. Box 240. Phil Campbell. AL 35581

DEALER: Johnny Reed Mobile Homes

ADDRESS: 6001 Dollarway Road. Pine Bluff. AR

HUD LABEL #: DRT002072 **UNIT SERIAL #:** 1CIIA0295

DATE OF PURCHASE: 7-5-84 **DATE OF INSPECTION:** 3-2-89

PERSONS PRESENT: Mrs. Jerri Wall (owner), Mary Beth Bowman and Bill White (Director and inspector respectively, Arkansas Manufactured Home Commission).

PREFACE: This report is the result of an inspection of the home performed at the request of the owners, through their attorney, to assess the extent and the causes of continuing deterioration of the home.

Most of the concerns expressed by the owner during this inspection relate directly to manufacturing defects which were observed and detailed in previous SAA reports. Only the items of consumer concern which have significantly worsened since the last SAA inspection and complaint related items of construction which have not been detailed in previous reports will be addressed. All observations and conclusions detailed in the previous inspection reports are considered to be valid.

SET-UP AND ANCHORING: These items were inspected and described in the SAA Inspection Report dated 9-22-86.

There is one item relating to the set-up of the home which has been a point of controversy and should be noted. The manufacturer has contended that some of the problems with the home are due to the lack of perimeter blocking.

The installation manual furnished by Connell Industries states on page 3 that, "if outriggers do not extend to perimeter of home, or if outrigger spacing is greater than 8'-0" O.C., then perimeter blocking in addition to I-beam blocking is required. (spacing, etc., to be same as frame piers.)" The outriggers do extend to the perimeter of the home and the outriggers spacing is less than 8' except the spacing between the last two outriggers on each end of the home which are spaced about 8' 3" apart.

After reviewing the information contained in previous SAA inspection reports, current observations, and photographs taken during the earlier floor repairs which showed floor joists that were cut too short and repaired by questionable methods, it would appear that unapproved manufacturing practices are the more likely reason for the sidewall problems in this home.

ITEMS OF COMPLAINT:

1. The interior cross-walls are separating from the side walls and the interior and exterior walls are warped and bowed.

   OBSERVATION: There is evidence that both of the home's sidewalls are spreading outward along the top. This condition may be caused by the failure of the truss rafter system or the failure of the sidewall support, i.e. floor joist to perimeter joist connections and outrigger support. This condition exists throughout the home but is more pronounced in the master bedroom and bath.. According to the owner, a double doorway opening in a cross-wall between the master bedroom and the bath has become 3 to 4 inches wider at the top than when the house was originally installed. This appears to be evidenced by the fact that a curtain rod that originally fit the width of this opening is now 3" to 4" too short for the span. There is pronounced gaps between the ends of the cross-wall and the sidewalls throughout the home.

   The interior gypsum wall board which is used on most of the walls is warped badly in all locations of factory installation. (The bedroom at the rear of the home was remodeled after a localized fire and that wallboard does not appear to be affected.)

The seams of the exterior hardboard siding are separated and permit water and air infiltration into the sidewall cavity. This condition is the most likely reason for the buckling of the interior wallboard. The hardboard installation on wall stud spacing of 24" O.C. has not been shown by Connell to be a DAPIA approved method of construction. The DAPIA approved design for the installation received from the manufacturer shows a maximum stud spacing of 16" O.C. (The hardboard siding appears to be Abitibi brand and according to NCSBCS engineers, this manufacturer's installation instructions permit a maximum stud spacing of 16".)

It appears that most of the nails used in the hardboard siding installation were overdriven and the obvious nail head penetrations were not sealed, resulting in moisture absorption and deterioration of the hardboard.

MANUFACTURER'S RESPONSIBILITY

2. The floors are warped and bowed.

OBSERVATION: The floors throughout the house are crowned to the center of the floor. Some areas such as the kitchen and second bath are more noticeable. There is a rotted out section of floor decking at the patio door opening in the kitchen area. These problems are obviously the result of excess moisture from a combination of sources including infiltration through the exterior walls, condensation on windows and doors and the sagging of the sidewalls. The mancered sidewall overhang has large gaps at various locations which also permits air and moisture infiltration which may be a factor.

MANUFACTURER'S RESPONSIBILITY

3. Roof leaks in kitchen, rear bedroom, and utility room.

OBSERVATION: There are water stains on the ceiling board along the sidewalls in the rear bedroom closet, and in the utility room. There is another stain in the kitchen ceiling in front of the patio door, about midway to the ceiling peak.

An inspection of the roof of the home disclosed that there are two plumbing vents which are allowing rain to enter the roof cavity. These vents are designed as two piece units with removable caps. The caps are not in place and the backer plate and roof cavity are visible from the roof. These vents are connected to the washer standpipe and the other to the commode in the small bathroom.

Other likely reasons for the roof leaks are the unapproved and incomplete methods used in the metal roof installation.

The original SAA inspection addressed the fact that the metal roof section covering the front half of the home had been spliced about 4' from the rear endwall. This latest inspection disclosed that this front section was also spliced over the entire width of the sheet about 4" from the front endwall. These splices extend from the front (curbside) sidewall to the peak of the roof. It is highly improbable that DAPIA approval has been granted for this application.

The seam that joins the front and rear roof sections over the entire length of the home and located about one foot below the roof peak on the front side, is not sealed per the DAPIA approved design. Connell's DAPIA approved design for this installation requires that the overlap joint and screw line be sealed with a roof coating sealant. The sealant has not been applied.

MANUFACTURER'S RESPONSIBILITY

4. The front entry and storm door have gaps at the top.

   OBSERVATION: The condition is as described and is most likely due to the structural problems previously addressed.

   MANUFACTURER'S RESPONSIBILITY

5. OTHER OBSERVATIONS: The factory installed hearth in front of the fireplace does not meet the requirements of the federal standards. The ends of the hearth are in line with the firebox opening but should extend past the opening to prevent sparks and embers from falling on the floor, in this case, carpet. Section 3280.709(g)(1)(v)

of the Manufactured Home Construction and Safety Standards require that the hearth extend at least 8 inches beyond each side of the fireplace opening.

MANUFACTURER'S RESPONSIBILITY

Bill J. White
Bill J. White, Inspector, AMHC

March 9, 1989
Date

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director

(501) 371-1641

SAA INVESTIGATION REPORT

NAME: E.L. Burns

ADDRESS: P.O. Box 417, Portland, AR 71663

MANUFACTURER: Indies House, Inc.

ADDRESS: Rt. 2, Box 190, Hackleburg, AL 35564

DEALER: Reed Mobile Home Sales, DBA Quality Mfg. Homes

ADDRESS: 2402 E. Harding, Pine Bluff, AR 71601

UNIT SERIAL #: AL2860-187-3726AB **HUD LABEL #:** DRT038968 & 69

DATE OF PURCHASE: 2-12-87 **DATE OF INSPECTION:** 3-13-90

PERSONS PRESENT: Mr. & Mrs. Burns (homeowners), Mary Beth Bowman and Bill J. White, Director and Inspector, respectively (Arkansas Manufactured Home Commission)

SET-UP AND ANCHORING:

A thorough inspection of the home's installation was not done due to the water on the ground under the home from heavy rains prior to the inspection date. The ground at the site is flat and the drainage is poor.

There appears to be at least three frame anchors installed per side.

The crossover heat duct is lying on the ground. The duct should be suspended off the ground to prevent deterioration.

PREFACE:

On July 22, 1987, this Agency received a complaint from Mr. Burns which stated the roof of his home was sagging. On July 27, 1987, a copy of this complaint was sent to Indies House, Inc., along with an official request by this office that Indies House, Inc., investigate this complaint and report its findings to us.

Our files indicate the service manager for Indies House Inc., stated in a phone conversation with one of our inspectors on 9-15-87 that he had inspected the roof during the week of 9-7-87 and found no problem with its construction.

Although the homeowner did not agree with this determination and asked that we make an inspection at that time, the complaint file was closed based on the information supplied by the manufacturer.

On January 26 of this year, the homeowner called this office to complain the roof was leaking in two places and stated again that the roof was defective. On March 3, 1989, the Director of this Agency notified the service manager of Indies House, Inc., an inspection of the home would be done on 3-13-90. There was no representative of Indies House, Inc., at this inspection.

ITEM OF COMPLAINT:

The roof is sagging and now leaks.

OBSERVATION:

There is a stain on the ceiling board of the living room along the curbside wall of the front half. This stained area is directly below the hitch side valley of the roof dormer. The homeowner suspected the leak was a result of improper shingling of the valley and attempted to correct leak by sealing along the dormer valley with asphalt cement. This repair was apparently unsuccessful.

An inspection of the roof indicates the dormer may have been installed on top of the main roof after the main roof had been shingled. There does not appear to be a metal flashing at this intersection and the shingles of the dormer roof do not apparently interlock with those of the main roof.

There is another water stained section of ceiling board in the kitchen above the refrigerator and along the wall separating the kitchen and utility room.

The third area of water stained ceiling board is at the rear of the living room near the patio door. This area is near the point the flue pipe for the wood burning heater installed by the homeowner enters the attic. It is believed this leak is related to the installation of the stove and is not a result of the home's manufacture.

The overall appearance of the roof indicates some problems in the roof design or installation. There are areas of undue sagging over the kitchen and living room on the rear half.

This Agency feels there are nonconforming aspects of the home's roof constructions which were not properly addressed by the manufacturer at the time of the initial complaint. It is also the opinion of this Agency, the roof leaks were most likely present at the time of the home's installation and were noted only when the resultant damage became obvious.

DETERMINATION:

Manufacturer's responsibility

NOTE:

References for the determinations of responsibility for corrections and/or repairs to resolve the above described complaints include:

1) Part 3280, Federal Manufactured Home Construction and Safety Standards.

2) Part 3282, Federal Manufactured Home Procedural and Enforcement Regulations.

3) Act 419 of 1977 as amended [A.C.A. Section 20-25-101 with specific reference to: Section 20-25-110. "Warranty"], and the Arkansas Manufactured Home Commission's Rules and Regulations.

The corrections and/or repairs must be completed within twenty (20) days after receipt of this report or written notice of appeal of the determinations must be filed with the Arkansas Manufactured Home Commission within the same twenty (20) day period.

Bill J. White
Bill J. White, Inspector, AMHC

4-16-90
Date

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director

(501) 371-1641

SAA INVESTIGATION REPORT

NAME: Jerry and Anthea Davis

ADDRESS: Route 1, Box 85, Maynard, AR 72444

MANUFACTURER: Connell Industries, Inc.

ADDRESS: P.O. Box 240, Phil Campbell, AR 35581

DEALER: Newark Mobile Home Sales, Inc.

ADDRESS: P.O. Box 437, Newark, AR 72562

HUD LABEL #: NTA 094227 **UNIT SERIAL #:** 1390

DATE OF PURCHASE: 4-25-88 **DATE OF INSPECTION:** 3-6-90

PERSONS PRESENT: Mr. and Mrs. Davis (homeowners), Mary Beth Bowman and Bill J. White, Director and Supervisor, respectively, Arkansas Manufactured Home Commission (AMHC).

SET-UP AND ANCHORING:

The home is not installed in accordance with the manufacturer's installation instructions nor with the Rules and Regulations of the AMHC. The home is now unlevel and, according to the homeowners, has never been properly leveled.

One of the original complaints by the homeowner was that the frame of this home was warped and the home could not be leveled. This complaint item was shown as item number 9 on a service work order faxed to Connell's service manager on 5-18-88 and again on 11-16-88, according to the dealer's records and notes.

The problem with the frame appears to be excess camber in the rear section and possibly some downwarping of the I-beam just forward of the axle area. The deflection of the frame in the forward section may be subject to correction by the releveling of this section of the home. The excess camber in the rear section will not allow the frame to be leveled by conventional means.

During attempts by the dealer's installation agent(s) to level the rear section; the over the roof tie straps were used to try to force this end down to a level position, according to statements from the homeowners. They stated the four, rearmost anchor straps were used and enough tension was exerted on the home's framing to deform some of the exterior sidewall metal. During the inspection, the homeowners were able to point out sections of the metal on the curbside sidewall that were bent by those actions.

After the consumers' filed a complaint with this Agency concerning these and other problems, the dealer's installation agent(s) attempted to complete the required blocking of the home, including the installation of perimeter supports.

The inspection revealed that of the nineteen perimeter support piers installed, twelve are not load bearing. There is at least one of the main I-beam support piers which is also not load bearing.

None of the pad blocks are 16" X 16" X 4" concrete slabs or equivalent as required by Section XVIII(B) of the AMHC Rules and Regulations. The intent of this regulation is to insure there is a solid, bearing surface for each support pier. The support bases, or pads, under the double blocked piers consists of two, 4" X 8" X 16" cap blocks laid side by side. Because the site consists of gravelly soil which is well drained, the use of the two 8" wide cap blocks as base pads is not believed to be a factor relating to the homeowner's complaints but their use for this purpose is a violation of the Regulations.

Some of the I-beam support piers are spaced more than the 8'0" maximum span allowed by the manufacturer's set-up instructions (page 4).

At least six of the main I-beam support piers have no wooden top plate installed as required by Section XVIII(C) of the Arkansas Manufactured Home Commission's Rules and Regulation. Most of the other I-beam support piers had top plates that were not 2" X 8" X 16" as required by the same section.

The result of the blocking condition defined above have resulted in the home being unlevel from side to side and from end to end. The lack of sidewall support appears to have induced some crowning of the floor system in the area of the I-beams.

The home is anchored by auger type anchors attached to five of the seven, factory installed, over the roof hurricane straps per side. At least one of the anchors lacks one foot being driven to full depth. Two of the over the roof straps per side are not used for anchoring. Connell's anchoring instructions indicate seven anchors per side are required to anchor the home properly. Section XIX(A) of the Arkansas Manufactured Home Commission's Rules and Regulations requires that all homes sold by a certified manufactured home dealer in the state of Arkansas shall be anchored according to the manufacturer's installation instructions.

DISCUSSION/CONCLUSIONS:

The homeowners attempted for over a year from the date of purchase to have the home properly blocked and leveled. They were told by the dealer's installer that the home's frame was warped and the home could not be leveled. The manufacturer's service personnel would not make some repairs because the home was not level. The inspection of the home indicates the home has never been properly blocked and the frame does appear to be warped.

The homeowner wants assurance the home can be properly leveled in the event he decides to move it to other property he has obtained.

The homeowners have the right to expect this can be done. In this case, it is both the dealer's and manufacturer's responsibility to see that this home can be leveled without damage to any components.

DETERMINATION: DEALER'S/MANUFACTURER'S RESPONSIBILITY

OTHER OBSERVATIONS RELATED TO INSTALLATION:

The home is not skirted and there is no vapor barrier installed on the ground underneath the home.

The clothes dryer exhausts underneath the home through a cut in the bottom board.

ITEMS OF COMPLAINT:

1. The kitchen counter top is very unlevel.

OBSERVATIONS:

The section of the kitchen countertop extending from the sink to the refrigerator (over the dishwasher) is installed grossly out of level. The condition displays a lack of workmanship that requires corrections under the Arkansas law referenced at the end of this report.

DETERMINATION: MANUFACTURER'S RESPONSIBILITY

2. The front door is out of square.

OBSERVATIONS:

The door is out of square. Until the home is level it cannot be determined if the condition is a result of the original installation or the result of the home's unlevelness.

DETERMINATION: PENDING

3. The replacement carpet in the living room was wet from rain when installed.

OBSERVATIONS:

There is no visible damage resulting from the carpet being wet at the time it was installed.

DETERMINATION: NO CORRECTIVE ACTION REQUIRED

4. The ceiling in the kitchen is not supported properly.

OBSERVATIONS:

The ceiling board along the fourth truss location from the living room door in the kitchen is not supported nor does it appear there is a truss at this location. There are discolored spots along the ceiling where a truss should be located that indicate attempts have been made to fasten the ceiling board after its original installation. The homeowners stated this condition existed at the time they first looked at the home on the dealer's lot.

The unsupported section is along the center of a four foot wide ceiling panel. When the ceiling is pushed upward by hand, there is no resistance to upward movement as would be encountered if an intact truss was in place. The same condition exists at the third ceiling panel from the living room door in the kitchen.

It appears there may be two trusses either missing or the bottom chords of the two trusses are broken. In either event, there are two sections of the ceiling that have no structural support members for fastening the ceiling board between the panel edges (4 feet.)

Although this area of the roof was subjected to stresses for which the roof system was not designed; when the installer tried to use the over the roof straps to pull the camber out of the frame, the homeowner's statements indicate the truss problems described previously existed before the home was sold by the dealer.

DETERMINATION: MANUFACTURER'S RESPONSIBILITY

5. The original mirror over the fireplace was removed by the dealer after the purchase contract was completed.

OBSERVATIONS:

There are nail or staple holes in the paneling over the fireplace indicating a large mirror was previously installed. At the time of the inspection a smaller mirror was installed. According to the homeowner, the original mirror was much more decorative.

Unfortunately, this Agency is not empowered to pursue complaints regarding alleged, questionable business practices used by dealers and/or salespersons.

DETERMINATION: OUTSIDE THE JURISDICTION OF THIS AGENCY

6. There was no instruction book furnished the homeowner for the factory installed fireplace.

OBSERVATIONS:

The homeowners stated they were not furnished an instruction book for the fireplace and when they asked for one, were told by the factory's serviceman and the dealer no instruction book was available.

It is a requirement of Section 3280.709(a) of the Federal Manufactured Home Construction and Safety Standards that the installer shall leave the manufacturer's instructions attached to the appliance.

DETERMINATION: MANUFACTURER'S RESPONSIBILITY

7. The sewer pipe furnished by the manufacturer was removed and kept by the dealer.

OBSERVATIONS:

According to the homeowner, the DWV pipe shipped in the home by the manufacturer for the completion of the drain system was removed after the contract was signed. The homeowner stated the imprint of the drain was left on the carpet when the home arrived on his homesite. He stated he was required to buy drain pipe to connect the front and rear drain outlets. When he complained to the dealer about this, the dealer reportedly offered to pay one half of this cost but never did so.

Sections 3280.610(c)(1) and 3280.610(c)(5) of the Federal Standards require the drain lines be furnished by the manufacturer to bring the drain system to one distribution point when the home is built with more than one drain outlet (drop outs).

The removal of this drain piping by the dealer is a violation of the Federal Standards and a violation of the Rules and Regulations of the Arkansas Manufactured Home Commission. The drain piping was a legally defined part of the home and, as such, was a part of the purchase price.

The dealer is therefore, directed to reimburse the homeowner for the actual cost of the drain lines and fittings necessary to connect and bring the drain line to one distribution point underneath the home.

DETERMINATION: DEALER'S RESPONSIBILITY

8. The stub wall in the rear bathroom is coming loose.

OBSERVATIONS:

The short stub wall attached to the rear endwall is not adequately fastened and is separating from the endwall.

DETERMINATION: MANUFACTURER'S RESPONSIBILITY

9. There is a roof leak in the middle bedroom.

OBSERVATIONS:

There appears to be a roof leak that has stained the ceiling board in the closet of the bedroom.

DETERMINATION: MANUFACTURER'S RESPONSIBILITY

10. The front bedroom closet wall is coming apart.

OBSERVATIONS:

The wall separating the front bedroom and closet is not adequately fastened to the front end wall and has caused the closet door to become misaligned with the opening. There are no fasteners over at least a five foot span of the connection between the wall and the endwall.

DETERMINATION: MANUFACTURER'S RESPONSIBILITY

NOTE:

References for the determinations of responsibility for corrections and/or repairs to resolve the above described complaints include:

1) Part 3280, Federal Manufactured Home Construction and Safety Standards.

2) Part 3282, Federal Manufactured Home Procedural and Enforcement Regulations.

3) Act 419 of 1977 as amended [A.C.A. Section 20-25-101 with specific reference to: Section 20-25-110. "Warranty"], and the Arkansas Manufactured Home Commission's Rules and Regulations.

The corrections and/or repairs must be completed within twenty (20) days after receipt of this report or written notice of appeal of the determinations must be filed with the Arkansas Manufactured Home Commission within the same twenty (20) day period.

Bill J. White
Bill J. White, Inspector, AMHC

4/6/90
Date

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director

(501) 371-1641

SAA INVESTIGATION REPORT

NAME: Paul F. Hale

ADDRESS: 1802 Caddo Street, Arkadelphia, AR 71923

MANUFACTURER: Guerdon Industries, Inc./Magnolia Homes

ADDRESS: Route 6, Box 33B , Vicksburg, MS 39180

DEALER: Red River Homes

ADDRESS: Hwy. 67 North, Arkadelphia, AR

HUD LABEL #: HWC158673 **UNIT SERIAL #:** GDVKMS298817463

DATE OF PURCHASE: 8-1-88 **DATE OF INSPECTION:** 5-4-89

PERSONS PRESENT: Paul F. Hale (homeowner), W.H. Arnold (homeowner's attorney), Burt Goodman (representing Magnolia Homes), Mary Beth Bowman and Bill J. White, Director and Inspector respectively, Arkansas Manufactured Home Commission.

SET-UP AND ANCHORING:

The piers under the ends of both I-beams at the hitch end are over 24" in height, including cap blocks, and are of single block construction. Section XVIII(D) of the Arkansas Manufactured Home Commission regulations require that piers exceeding 24" in height shall be of double block construction and interlocking. There are three pier support spans along each I-beam exceeding ten feet between piers. These spans range from eleven feet to twelve and one half feet. The manufacturer's installation manual directs that piers be installed under the I-beams no more than eight (8) feet apart.

The home is anchored with six (6) Minute Man cross drive anchors which are designed for use in very dense and/or cemented sands, coarse gravel and covvles, preloaded silts, clays and corals. The soil at the site does not appear to be suitable for the cross drive anchor as it appears to be a sandy clay with some dispersed gravel. All anchor straps are loose and may be the result of settling.

DEALER'S RESPONSIBILITY

ITEMS OF COMPLAINT:

1. Roof is bent.

OBSERVATION:

The metal roof is installed with large waves and with irregular bends in the metal over the entire length of the home along the peak. The area of the roof near the furnace stack has unusually large waves in the metal that has produced erratic, sharp creases in the roof along the peak. This area shows obvious signs of stress and metal fatigue. The metal was obviously not pulled tight prior to the original fastening. The metal fatigue at the creases along the peak were no doubtr made worse by the flexing of the roof due to airflow during transportation. (The homeowner stated he followed the home from the dealer's lot to his site and the metal roof was "flapping in the wind like a bedsheet".) The fastening of the metal gutter along the roof line is also questionable. There is no caulking tape between the J-rail and the metal roof lap. In addition, there are numerous nails that have passed through the J-rail, leaving gaps and exposed nail heads between the J-rail and the metal roof.

There is also a lack of the required sealing along the "J" rail/roof metal contact (koolseal) around the perimeter of the home. This metal roof installation is not per the DAPIA approved design for fastening, contact point sealing, finish sealing or the roof metal positioning. In addition, the roof installation is devoid of evidence of workmanship. The homeowners stated that during heavy rains he could hear water dripping inside the sidewall cavity and it is certain that the problem does exist and will worsen in a short period of time.

MANUFACTURER'S RESPONSIBILITY

2. The wallboard in the shower compartment is damaged.

OBSERVATION:

The vinyl covered wallboard has some small holes in the vinyl, exposing the wallboard to water damage. Section 3280.607(b)(3) of the Federal Manufactured Home Construction and Safety Standards requires that the shower compartment wall area be constsructed of nonabsorbent water proof materials.

MANUFACTURER'S RESPONSIBILITY

3. Storm door does not seal at the top.

OBSERVATION:

The complaint item is as stated. The door should be repositioned after the home has been releveled if still not fitting properly.

DEALER'S/MANUFACTURER'S RESPONSIBILITY

4. Roll goods under kitchen bar is 1" too short.

5. Roll goods in hallway has small holes in it.

6. Glue on roll goods in bathroom and living room.

OBSERVATION:

The complaint items were found to be as reported. These complaints may be covered by the homeowner's warranty although they are not enforceable under the Federal Manufactured Home Procedural and Enforcement Regulations.

NO DETERMINATION

Bill White
Bill White, Inspector, AMHC

6-21-89
Date

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director

(501) 371-1641

SAA INVESTIGATION REPORT

NAME: Sharron and Lindell Skinner

ADDRESS: Rt. 10. Box 470. Texarkana, AR 75502

MANUFACTURER: Sunshine Homes. Inc.

ADDRESS: P.O. Box 507, Red Bay. AL 35582

DEALER: Posey Mobile Homes

ADDRESS: 4924 W. 7th Street, Texarkana. TX 75501

HUD LAB #: ULI263160 & 61 **UNIT SERIAL #:** 20827

DATE OF PURCHASE: Nov 86 **DATE OF INSPECTION:** 2-7-90

PERSONS PRESENT: Mr. & Mrs. Skinner (home owners), Mary Beth Bowman and Bill J. White, Director and Inspector respectively, Arkansas Manufactured Home Commission

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PREFACE:

The inspection of this home was done at the request of Mr. Ray Forester, General Manager of Sunshine Homes, Inc. and with the consent of the home owner's attorney, Mr. Winford L. Dunn, Jr. of the Smith, Stroud, McClerkin, Dun and Nutter Law Firm.

The purpose of this inspection was to determine the nature and extent of the consumer's complaints, and to determine if these complaints are the result of defects in construction subject to enforced correction by the manufacturer under the Federal Manufactured Home Procedural and Enforcement Regulations for which this Commission is the State Administrative Agency. Aspects of the installation of the home were inspected for conformance to the Rules and Regulations of the Arkansas Manufactured Home Commission and the manufacturer's installation instructions.

As the home owners have retained an attorney to assist them in the resolution of their complaints, it will be necessary that any proposed repairs or corrections to the home and/or its installation be submitted to the attorney before commencement of the work.

SET-UP AND ANCHORING:

There were some aspects of the home's installation which did not conform to the manufacturer's installation requirements. Sunshine Homes' "Instructions" - "Pier spacing" states that in addition to I-beam piers, there are to be support piers placed under the side walls at each outrigger location and one pier between outriggers at 4 feet on center. There are no piers installed under the outside side walls.

The marriage line does have support blocking, but the spacing of the piers do not meet the stated spacing requirements.

DETERMINATION:

Dealer's responsibility

OTHER OBSERVATIONS

The home is underpinned and there are no ventilating openings except for about 12 to 15 small holes drilled in the underpinning at the marriage line at each end. The clothes dryer is vented to the outside.

Neither Sunshine Homes' home owner's manual, nor their set-up manual addresses the need for vents in this underpinning or the need for a vapor barrier on the ground underneath the home. This omission may indicate the manufacturer's lack of compliance with the intent of part 3283 of the Federal Standards. This section of the Federal Regulations requires the manufacturer to provide information to the consumer relating to proper home maintenance, and the control of moisture underneath the home is a critical aspect of maintenance. The requirements for venting the subfloor space should be detailed in the home owner's manual or the installation manual.

ITEMS OF COMPLAINT:

1. Roof problems.

(a) OBSERVED:

There is a 4' long ridge in the roof on the rear half that appears to be the result of a lack of fastening of the roof decking at a joint or a broken truss that has displaced a joint in the roof decking. Attempts have been made by someone other than the home owner to nail through the shingles to secure this loose decking. The attempt was unsuccessful. The nail heads were covered over with asphalt cement.

(b) OBSERVED:

Most of the shingles on the rear half of the home are curled at the outside tab corners and the tabs show a lack of sealing along the sealing strip. The shingles on the front half exhibit the same condition, although the curling does not appear to be as pronounced.

A minor portion of the unsealed tabs on the front half are the result of high staples in the underlying shingles.

It could not be determined during the inspection if the curling of the shingles was a result of a defect in their manufacture or installation.

The home owner's complaint concerning the condition of the shingles was transmitted to the shingle manufacturer, Atlas Roofing Corporation, on July 18, 1988. The home owner has not yet furnished Atlas with the requested documentation to establish a claim under their warranty.

DETERMINATION:

(a) Manufacturer's responsibility
(b) Manufacturer's responsibility and/or shingle
    manufacturer's responsibility

2. The furniture was defective.

OBSERVED:

The furniture is not an aspect of construction and is not covered by the Federal Manufactured Home Construction and Safety Standards, nor is it covered by any Rule and Regulation of the Arkansas Manufactured Home Commission.

NO DETERMINATION

3. The carpet is defective and improperly installed.

OBSERVED:

The carpet in the home is specifically exempted from enforcement under the Federal Standards.

NO DETERMINATION

4. The paint on the shutters is peeling.

OBSERVED:

The complaint item was found to be as described. The shutters do not constitute a structural component covered by the Federal Standards, nor does their installation reflect a lack of workmanship that would be covered by the Arkansas Manufactured Home Commission's Rules and Regulations. The fact that the paint is peeling in such a short time, may indicate the paint was defective or improperly applied.

NO DETERMINATION

5. The water heater was defective.

OBSERVED:

According to the home owner, the water heater was improperly plumbed and was repaired by the home owner. At the time of this inspection, the plumbing appeared to be properly installed. No further action is warranted.

It was noted that the flue pipe was not properly fastened, or aligned at the joint about four feet above the top of the heater. Also, there is a large hole in the ceiling board surrounding the flue pipe which is not firestopped as required by section 3280.206 of the Federal Standards.

DETERMINATION:

Manufacturer's responsibility

6. Plumbing.

OBSERVED:

This item of complaint relates to the lack of drainage from the dishwasher. At the conclusion of the washer's discharge cycle there is a substantial pool of water left in the bottom of the unit. The home owners have not used the unit because of the possibility of food contamination from the residue left in the unit.

It appears the problem may be related to the excessive amount (6 feet) and looped route of the unit's flexible drain hose to the air gap connection under the kitchen sink. The water left in the hose at the conclusion of the discharge cycle is most likely draining back into the washer.

DETERMINATION:

Manufacturer's responsibility

7. Shower stalls and fixtures.

OBSERVED:

The shower's tilex wall surround has two cracks in the rear section about three feet above the pan which appears to be about two to four inches long. The shower surround on the rear wall does not appear to fit closely to the home's wall framing, nor is it secured to the wall at this location. This lack of support and securement has most likely subjected the surround to stress during normal use for which it was not designed.

The door of this shower is installed with a gap of about 1/2 inch between the top of the shower pan threshold and the flexible splash guard. This condition allows water from the shower to splash onto the bathroom floor (carpet) outside the stall.

Section 3280.607 (b)(3) of the Federal Standards requires each shower compartment stall shall be provided with an approved watertight receptor. The ill-fitting door does not apparently meet these requirements as it is obviously not an approved installation.

DETERMINATION:

Manufacturer's responsibility

8. Connecting seam for doublewide.

OBSERVED:

As best as could be determined, this item of complaint addresses the carpet seaming along the marriage line that was done at the time of the home's installation.

The carpet in this area appears to be typical of most doublewide manufactured homes and did not display a lack of workmanship that would be subject to correction under State Regulations.

9. Floor problems.

OBSERVED:

There is a detectable difference between the level of the floors of the two halves at the rearmost section of the marriage line in the living room, clear span opening. The floor decking was not inspected directly, but this difference in level appears to be no more than 1/4" as estimated by stepping on the carpet and pad at the location. This condition is common in double wide homes and is sometimes difficult to prevent. Because of apparent well fit of the rest of the home's marriage line and the minor displacement at this location. it seems the best solution would be to use a wood filler material to bring the level of the low floor section to the proper level. (There are several materials available for such purposes.)

Any method of correction would be subject to approval by the homeowners, although in this inspector's opinion, to correct this item by breaking the two halves apart would most likely generate even more serious problems.

DETERMINATION:

Dealer's (Installer's) responsibility

10. Appliances.

OBSERVED:

This complaint relates to the dishwasher problem described in item #6, and the continued loss of freon from the central air conditioning unit installed by the dealer's contractor. The air conditioner was reportedly included in the price of the home and its installation was included.

The complaint relating to the purchase of the air conditioner is a matter that this Agency is not empowered to pursue.

NO DETERMINATION

11. The front, exterior door is not properly installed.

OBSERVED:

This item of complaint was not listed by the home owner in the correspondence from their attorney to the dealer, but was mentioned during this inspection.

The complaint refers to the lack of sealing to prevent air infiltration along the vertical edge of the door on the latch side. There is a space between the door's frame and the wall framing stud that is not sealed by the exterior or interior door trim.

Sections 3280.307(a) and 3280.405(d) of the Federal Standards require the door be installed to provide protection against the elements.

DETERMINATION:

Manufacturer's responsibility

12. There is a discolored spot on the rear sidewall, interior wall board.

OBSERVED:

According to the home owner, this 2" discolored area was caused by the use of some type of paint remover or solvent by the dealer's serviceman to remove stains from the wall board.

DETERMINATION:

Dealer's responsibility

13. The exterior hardboard siding is improperly installed.

OBSERVED:

There are numerous overdriven nails in the exterior hardboard along the rear sidewall, which will allow moisture into the body of the hardboard panels. There are some nails along this wall that were installed on site and these nails are now rusted. It is not known with certainty who added this fastening. All fasteners used to attach exterior coverings are required by section 3280.307(a) of the Federal Standards to be corrosion resistant.

There are some of the vertical lap joints of the siding that are not properly fastened. The forward edge of the second hardboard panel from the hitch end on the rear sidewall does not fall on a wall stud over most of its length. There are other joints that appear to be loose as well. Some of the fasteners used on the front sidewall do not penetrate a wall framing member and can be extracted by hand.

DETERMINATION:

Manufacturer's responsibility

OTHER OBSERVATIONS RELATING TO THE HARDBOARD SIDING:

The home owner's manual indicates no maintenance is required for this exterior hardboard siding except occasional rinsing with water. This Agency questions the validity of that statement and asks the manufacturer to submit documentation from the hardboard manufacturer to verify the hardboard's ability to withstand weathering without the need for routine painting or sealing.

This Agency's experience with hardboard siding complaints shows that routine maintenance is required. We have found that the most serious problems relating to hardboard siding are:

1. Overdriven fasteners with a lack of caulking at each overdriven nail location;
2. Lack of caulking of hardboard trim in contact with the hardboard siding, (skirtboard trim, window trim, etc.);
3. Lack of periodic painting; and
4. Lap joints not falling on wall studs.

Notes:

References for the determinations of responsibility for corrections and/or repairs to resolve the above described complaints include:

1) Part 3280, Federal Manufactured Home Construction and Safety Standards.

2) Part 3282, Federal Manufactured Home Procedural and Enforcement Regulations.

3) Act 419 of 1977 as amended [A.C.A. Section 20-25-101 with specific reference to: Section 20-25-110. "Warranty"], and the Arkansas Manufactured Home Commission's Rules and Regulations.

Bill J. White 3-26-95
Bill J. White, Inspector, AMHC Date

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director

(501) 371-1641

SAA INVESTIGATION REPORT

NAME: Dale Ward

ADDRESS: Route 4, Box 523, Russellville, AR 72801

MANUFACTURER: Fairmont Homes, Inc.

ADDRESS: P.O. Box 27, Nappanee, Indiana 46550

DEALER: T-Berry's Mobile Homes

ADDRESS: Route 1, Box 425 - Hwy. 64E, Russellville, AR 72801

HUD LABEL #:RAD142112 UNIT SERIAL #: NO40882

DATE OF PURCHASE: Feb. 1983 DATE OF INSPECTION: 9-14-89

PERSONS PRESENT: Mrs. Ward (homeowner), Bill J. White, Inspector, Arkansas Manufactured Home Commission.

SET-UP AND ANCHORING: The home is underpinned with vinyl skirting which has four 8" X 8" metal vents at random locations around the perimeter. No inspection of the blocking or anchoring was made due to the lack of access through the skirting.

ITEMS OF COMPLAINT:

The homeowner has complained of water infiltration damage to the homes' structure since 1983. The hardboard siding has now deteriorated beyond repair and the homeowner suspects the flooring and subfloor framing may also be badly damaged.

OBSERVATION:

The vertical hardboard siding (Masonite's CypresSide) has been damaged beyond repair by moisture penetration. The moisture penetration is a result of:

- (a) overdriven nails (35% to 50% of all nailing);
- (b) omission of fastening along the edges at joints;
- (c) lack of fastening due to the misplacement of the studs at joints;
- (d) the lack of sealing along the top edge of the horizontal skirtboard trim.

The most pronounced areas of deterioration are at the joints in the siding above the skirtboard trim. The hardboard at these locations has deteriorated to the extent that the interiors of the sidewall stud bays are exposed. This condition exists over most of the perimeter of the home. There is evidence of decay at the base of the wall studs, bottom plates, perimeter joists and floor decking along both sidewalls and endwalls.

There are vertical joints in the siding toward the front end on the curbside sidewall and on the front endwall that do not fall on studs. The nails at these locations do not penetrate a structural member and can be withdrawn from the hardboard by hand.

The hardboard siding joints on the mancered overhang above the bay window on the front endwall have not been nailed except at the bottom and top edges. There are four vertical joints at this location which have no fastening over spans ranging from 22" to 34". The fastening of the mancered bay window overhang on the rear of the home displays random nailing that appears to miss structural members. Some locations have several nails clustered at one spot. At these locations, the nailing that missed structural members are overdriven and unsealed.

The mancered sidewall overhang has numerous joints which are not adequately fastened and numerous locations in which the fasteners have been overdriven at the vertical joints. In places the lower edge of the mancered overhang has become separated from the sidewall.

The homeowner has attempted to seal some of the affected areas to stop the deterioration of the home, but these attempts have been unsuccessful.

DETERMINATION:

It is the opinion of this agency that the rapid deterioration of the hardboard siding and adjoining structural components are a direct result of the improper installation and sealing of the hardboard siding during the home's construction. The extensive damage that now exists is directly related to the failure by Fairmont Homes to correct these deficiencies in construction when first brought to its attention by the homeowner in 1983.

MANUFACTURER'S RESPONSIBILITY

Bill J. White
Bill J. White, Inspector. AMHC

Oct. 10, 1991
Date

EIVED
JUL 10 1989
Arkansas
Manufactured Home Commission

RECEIVED
JUL 18 1989
Arkansas
Manufactured Home Commission

CONSUMER COMPLAINT FORM

Mail to: Arkansas Manufactured Home Commission
401 West Capitol Ave., Suite 440
First Federal Plaza
Little Rock, AR 72201
(501) 371-1641

Office Use Only
C.C. # 89-126
Assigned to: BW

Name of Person Filing Complaint: DALE C. WARD

Address: RT4 BOX 523 (City) RUSSELLVILLE (State) AR (Zip) 72801

Telephone: (Home) 501-641-7821 (Work) 501-968-7555 (Other) —

Manufacturer: FAIRMONT HOMES, INC.

Address: PO BOX 27 (City) NAPPANEE (State) IND. (Zip) 46550

Dealer: T-BERRY

Address: HWY 64E (City) RUSSELLVILLE (State) AR (Zip) 72801

Unit Serial #: ND40882 7014 2B FB GT 7X24 EXP SHW HUD Label #: 142112

Date Purchased: 2-83 Purchased: [✓ New] Used (Circle One)

ALL BLANKS ABOVE MUST BE COMPLETED IN FULL IN ORDER FOR US
TO PROCESS YOUR COMPLAINT

Description of Complaint

Note: Please list each item separately, be brief and specific.

1. Within the 1st year, Fairmont Homes had to come out &
2. replace part of the floor because of water damage due to
3. the siding leaking. They catched the problem. Now the
4. siding is rotting from the inside out & has large holes
5. in the siding. A Masonite Representative came out &
6. stated the siding wasnt installed correctley, therefore the
7. 25yr. warrantee from Masonite is void. Fairmont is Refusing

Dale Ward 7-7-89
Signature Date

NOTE: ATTACH A READABLE COPY OF YOUR FINAL CONTRACT TO THIS COMPLAINT FORM.

There was no final contract.
Its a standard mobile home warrantee.

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director

(501) 371-1641

SAA INVESTIGATION REPORT

NAME: Harold Barnes

ADDRESS: 203 E. Jefferson, Monticello, AR 71655

MANUFACTURER: Spirit Homes, Inc.

ADDRESS: P.O. Box A, Bigelow, AR 72016

DEALER: J & M Mobile Homes

ADDRESS: Highway 65 South, Pine Bluff, AR 71601

UNIT SERIAL #: SBAR8767430533 **HUD LABEL #:** ARK 034608

DATE OF PURCHASE: July 24, 1987 **DATE OF INSPECTION:** 5-31-90

PERSONS PRESENT: Mr. and Mrs. Barnes (homeowners), David L. Chambers, (homeowner's attorney), Mil Adams (representing Spirit Homes), Mary Beth Bowman, Director and Bill White, Inspector (Arkansas Manufactured Home Commission).

PREFACE:

The Arkansas Manufactured Home Commission received a list of complaints relating to water infiltration into this home on December 14, 1987. The home was inspected on 1-28-88 by an inspector from this Agency. The SAA report of that inspection dated 2-2-88 states the roof metal was not sealed adequately to the hardboard siding at the overlap. The first item of complaint by the homeowner, and the most serious, was that there was water in the walls, ceiling, and floors.

Service work relating to the roof leaks was done by Spirit's personnel on at least three occasions prior to this Agency's original inspection. After the inspection, results were given to Spirit; there were apparently two more attempts made by their service department to remedy the roof and/or wall leaks.

According to the homeowner, the roof and/or wall leaks have never been corrected.

SET-UP AND ANCHORING:

The original SAA inspection report states the home was set up and tied down per the Arkansas Manufactured Home Commission's regulations. That statement was in error.

There are several piers under the I-beams which are spaced up to 12' apart. The regulations in effect at the time of this home's installation, required the piers be spaced no more than 10' apart.

The rules and regulations in effect at the time of the installation required the home be anchored according to the manufacturer's anchoring instructions, as does the current regulations. The field installation manual that was furnished to the homeowner at the time of purchase has no specific, engineered anchoring instructions for a 16 ft. wide unit. There are specific details for anchoring 12 ft. and 14 ft. wide units (pages 17 through 20) and these details show the following pertinent information:

a) Diagonal (frame) ties shall be installed at each pier location;
b) Over the roof straps are not required;
c) Anchors (and piers) must be installed within 16" of each endwall; and
d) The anchor (and pier) spacing shall be 10' 4" maximum.

Based on these anchoring instructions, eight frame anchors per side are required to provide adequate windstorm protection. The home has at present only four anchors per side and these are attached to the factory installed, over-the-roof tie straps. There are no frame anchors.

DETERMINATION: DEALER'S RESPONSIBILITY

OTHER OBSERVATIONS RELATING TO INSTALLATION:

The home is underpinned (skirted) with vinyl which is relatively tight fitting and the skirting has no ventilation ports or panels. There is no vapor barrier installed on the ground under the home. According to the homeowner, the vinyl skirting was installed by a contractor they employed.
It was not determined, with certainty, that the clothes dryer was vented to the exterior of the home.

The ground under the home was very damp and there was an erosion path under the home caused by water draining from the rear of the home toward the middle of the curbside.

The homeowners stated they did not receive a manual from the dealer/manufacturer other than the field installation manual. The installation manual makes no mention of the need to ventilate the underside of the home when skirting is installed. This agency has in its file a homeowner's manual from Spirit Homes which does point out the need for both ventilation and a ground cover (vapor barrier) when skirting is installed to control condensation and moisture in and under the home.

It is the inspector's opinion that at least some of the moisture problems within the roof and walls are a result of the lack of vents in the skirting and the absence of a vapor barrier on the ground.

ITEMS OF COMPLAINT:

1. The roof has leaked continuously since the home was installed.

OBSERVATIONS:

There is evidence of water damage and/or stains on both the ceiling and walls over the length of the home. Most of the stains are along the sidewall, but there are others at the following locations:

a) In the living room, across the vaulted area, between the stereo speakers on the ceiling;
b) On the ceiling at the vent fan location in the guest bathroom;
c) On the ceiling of the first bedroom at the light fixture;
d) On the ceiling above the commode in the master bathroom; and
e) On the paneling and trim of the window framing on the roadside windows in the living room.

According to the homeowners, most of the areas of water infiltration have been the objects of attempted repairs on more than one occasion. They stated that there are new areas of staining in the living room, in the first bedroom and guest bath.

An inspection of the roof disclosed:

a) There is a 3/8" long hole in the roof metal above the living room, about 2'5" from the curbside wall;
b) The edge of the overlapping section of the two piece roof falls directly at the peak of the roof and at no point is turned down over the peak more than about 1";
c) Although the overlap of the roof is not that of a normal installation; the edge of the overlap appeared to be adequately sealed to the section underneath at present;
d) There was no obvious lack of sealing around any of the vents through the roof; and
e) It could not be determined with certainty that there was a lack of sealing tape between the metal roof and the top of the hardboard siding along the side and end walls.

DISCUSSIONS/CONCLUSIONS:

It is obvious from the homeowner's original complaint, from Spirit's service work orders and the observations of two Arkansas Manufactured Home Commission inspectors that the roof of the home was neither properly installed during the home's construction nor have adequate repairs been made to the roof up to the time of this inspection. There is evidence to indicate some of the original water damage may have been the result of condensation within the attic (or roof cavity). This condensation may have been the result of a lack of ventilation and a minimal amount of ceiling insulation. Because the roof metal had been reinstalled prior to this inspection, there is no possibility of knowing the actual reasons for the continued leaks. Since the home's construction, there have been vents installed in the metal siding above the ceiling line on the gable ends of the home.

The homeowner's fear that there is still wet insulation in both the walls and ceilings is justified. To adequately repair this home will require that the entire roof be removed and the ceiling insulation inspected. The wet insulation would have to be removed and adequate insulation installed. New roof metal must be installed per the DAPIA approved designs.

With the roof metal off, the areas of metal siding on the endwalls which have the poorly installed vents should also be replaced and the vents installed to reflect a degree of workmanship now lacking.

The paneling along the interior sidewalls would require removal in the areas of apparent damage and the insulation and framing members checked for moisture or moisture damage. All damaged components would require replacement or reinforcement. All areas of the ceiling that are stained should be repainted. (This would involve most of the home's ceiling.)

DETERMINATION: MANUFACTURER'S RESPONSIBILITY

2. The light fixture in the master bathroom continues to blow the bulbs.

OBSERVATIONS:

Because there is a leak in the ceiling near this area, there is a possibility the problem with the light is related.

DETERMINATION: MANUFACTURER'S RESPONSIBILITY

3. The back door was not properly installed originally and still leaks.

OBSERVATIONS:

The homeowner stated (and Spirit's service work orders confirm) the door did not close properly for two months after the home was installed and rain leaked into the home around the door. The door is not presently tight fitting and appears to be swelled from the inside.

The door may be damaged due to water having leaked into the door's core because of its ill fit. Because this problem with the door is a part of the homeowner's original complaint, it will require correction under the state warranty law.

DETERMINATION: MANUFACTURER'S RESPONSIBILITY

4. The home is not double floored or double insulated.

OBSERVATION:

The Federal Standards do not require the floor to be of two thicknesses. The Standards do require certain minimum insulation in the roof, walls, and subfloor areas.

The complaint appears to be related to the homeowner's belief that these features were to be upgraded in this home. Such upgrades are permissible as optional features at additional costs. These items would be contractual agreements not subject to review by this Agency.

DETERMINATION: NONE

5. The home was never releveled.

OBSERVATIONS:

The home is not perfectly level in the areas in which the level could be checked. In the carpeted areas of the rear bath and bedroom, the floor does appear to be more unlevel than the rest.

Because of the soil conditions under the home and the overspacing of the piers, it is obvious the home is subject to abnormal settling. That condition, and the leveling, should be corrected by the dealer's corrections of the installation deficiencies noted in the SET-UP AND INSTALLATION section of this report.

OTHER COMPLAINTS:

At the time of this inspection, the homeowners presented the inspector with a list of thirty complaints. This list included several individual items that were all related to the roof leaks/moisture problems described in item 1. Several of the other complaint items on the list were original complaints that have since been corrected.

The inspector has tried to address all separate, basic complaints that were presented within the home's warranty period and which have not been adequately corrected or repaired.

CONCLUSIONS:

As the condition of this home is presently a matter being handled by the homeowner's attorney, it will be necessary that any repairs or corrections to the home or its installation be reviewed by the homeowner's attorney prior to the commencement of the work.

NOTE:

References for the determinations of responsibility for corrections and/or repairs to resolve the above described complaints include:

1) Part 3280, Federal Manufactured Home Construction and Safety Standards.

2) Part 3282, Federal Manufactured Home Procedural and Enforcement Regulations.

3) Act 419 of 1977 as amended [A.C.A. Section 20-25-101 with specific reference to: Section 20-25-110. "Warranty], and the Arkansas Manufactured Home Commission's Rules and Regulations.

Bill J. White
Bill J. White, Inspector, AMHC

7-3-90
Date

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director
(501) [illegible]1-1641

RECEIVED
MAR 0 6 1990
Arkansas
Manufactured Home Commission

MANUFACTURER'S BID ON CLAIM

NAME: Donald Morrison

ADDRESS: Rt. 7, Box 1501 Woodhaven, El Dorado, AR 71730

MANUFACTURER: Remington Homes, Inc.

ADDRESS: 702 Apollo Ave., Duncanville, TX 75137

DEALER: Varco's Apple Homes of Arkansas

ADDRESS: 1720 Junction City Rd., El Dorado, AR 71730

HUD LABEL #: TEX 418215 **UNIT SERIAL #:** 50305650

DATE OF PURCHASE: 8-4-88 **DATE OF INSPECTION:** 11-21-88

PERSONS PRESENT: Mrs. Donald Morrison (homeowner) and Tim Dooley (Arkansas Manufactured Home Commission, Inspector)

ITEMS OF COMPLAINT:

1. The roof has hills and valleys.

OBSERVED:

The roof has many deflections along both sides of the home. The home is equipped with "Thinking Cap" ventilators and it appears they have become inoperable in the closed position allowing for excessive condensation. It appears this condensation has caused the roof decking to warp and pull away from the trusses.

CORRECTIONS REQUIRED:

Remove shingles and decking. Replace with 1/2 inch plywood and shingles and repair ventilators.

BID AMOUNT FOR CORRECTION: ______________

TOTAL BID AMOUNT FOR CORRECTION: $1832 71

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director
(501) 371-1441

RECEIVED
OCT 24 1989
Arkansas
Manufactured Home Commission

Bid:
Howard Bradford
S & G Home Improvements
Jacksonville

MANUFACTURER'S CLAIM BID
(ADDENDUM TO ORIGINAL REPORT)

NAME: Mr. Tracy Holloway (Greentree Acceptance)

ADDRESS: Rt. 1. Box 152-B. Sparkman. AR 71763 (Little Rock)

MANUFACTURER: New Cor. Inc.

ADDRESS: Hwy. 78 West. Kansas. AL

DEALER: Red River Mobile Homes. Inc.

ADDRESS: P.O. Box 370. Hope. AR 71801

HUD LABEL #: DRT 044550 UNIT SERIAL #: 50891

DATE OF PURCHASE: 11-5-87 DATE OF INSPECTION: 9-28-89

PERSONS PRESENT: Mr. Don Jackson (representing Red River Mobile Homes. Inc.) Ms. Mary Beth Bowman and Bill J. White. Director and Inspector respectively. Arkansas Manufactured Home Commission.

PREFACE: This home was inspected on the original owner's homesite on 11-8-88 by Mr. Steve Gothard of the Arkansas Manufactured Home Commission staff to determine and define the extent of repairs required to bring the home into conformance with the Federal Manufactured Home Construction and Safety Standards. The home has since been returned to the dealer's lot and was at this location during this inspection.

The original manufacturer's claim estimate report dated 12-5-88 is apparently lacking in detail as to the severity and suggested methods of correction of the home's exterior siding problems.

The purpose of this addendum is to more accurately define the existing problems and to determine the best method to correct the problems.

ITEMS OF COMPLAINT:

1. The curbside living room storm window is cracked at the upper left hand corner.

SUGGEST:

Replace storm window.

BID AMOUNT FOR REPAIR: $75.00

2. The front door leaked and the paneling in the hall shows evidence of water damage along the lower edge.

SUGGEST:

Replace the 36" X 77" steel door/storm door unit. (Dealer agreed to repair or replace paneling in the hallway.)

BID AMOUNT FOR REPAIR: N/A

3. The wall paneling in the front bedroom has pulled loose from the wall framing member.

SUGGEST:

(Dealer agreed to repair or replace the wall paneling.)

BID AMOUNT FOR REPAIR: N/A

4. The shower door frame is bowed in the middle and will not allow the shower door to close properly.

SUGGEST:

(Dealer agreed to correct.)

BID AMOUNT FOR REPAIR: N/A

5. There was no moisture resistant material applied to the floor decking in the utility room.

SUGGEST:

(Dealer agreed to correct.)

BID AMOUNT FOR REPAIR: N/A

6. The door to the master bathroom was installed wrong. The door swings out and hits the bathroom light fixture.

SUGGEST:

(Dealer agreed to relocate light fixture.)

BID AMOUNT FOR REPAIR: N/A

7. The rear door was installed without a drip cap and no screws were installed along the bottom edge of the door frame.

SUGGEST:

(Dealer agreed to repair or correct.)

BID AMOUNT FOR REPAIRS: N/A

8. There are no screens on three windows.

SUGGEST:

(Dealer agreed to replace screens.)

BID AMOUNT FOR REPAIRS: N/A

9. There is a 8" X 12" hole in the interior wallboard on the sidewall under the microwave base cabinet. There is a wall stud exposed which has been cut and two non-metallic cables are exposed in the opening. The sheathing on one of the cables is cut.

SUGGEST:

Install a covering of wallboard (approximately 14" square) over the interior opening. Replace or add another stud at the location when the exterior siding has been removed. (See Item 10.) Repair cut in the non-metallic cable by taping over.

10. The half log siding is pulling loose from the wall studs and individual logs are warped. The butt joints at many locations have as much as 3/4" gaps. The siding in nearly all areas has warped to the extent that there are openings into the sidewalls at the lap joints. The siding is not sealed adequately at the window and door frame intersections.

SUGGEST:

Remove all of the log siding and replace with masonite X-90 shiplap edge panel siding (vertical panels) or equivalent hardboard siding. This will require the removal of both exterior doors, all windows, and the exterior cover for the kitchen range vent. (There are nine (9), 32" X 55" and one (1), 16" X 41" windows in this unit.) All the door and window framing must be trimmed to fit the new wall thickness. All fascia board and related trim should be removed and replaced with custom cut hardboard material. Vertical trim to cover the corner joints should be tight fitting. If skirt board trim is used along the lower edge of the perimeter of the home, the top edge of the trim must be caulked to prevent water from entering the space between the trim and the exterior siding. All windows and doors must be installed in their original locations with sealing tape installed under the mounting flanges at all screw hole locations.

1395

All hardboard siding must be installed in accordance with the manufacturer's installation instructions. It may be necessary to add wall studs or nailers onto existing studs to insure that all vertical joints fall on structural framing members.

Prior to installing any of the siding the frame under the home should be leveled and temporarily blocked. At least three metal support straps should be installed on the rear half of each sidewall to help keep the rear section from sagging as is now the case. (Some adjustments in the leveling can be made to insure that the paneling will be square in relation to the perimeter joists and studs when installed.)

After the logs have been removed from the home, the insulation in the exterior walls should be inspected to insure that it is still in place and affords full coverage. If necessary, the insulation should be repositioned and refastened. If there are insulation voids found in the sidewalls, the contractor should notify the Arkansas Manufactured Home Commission's office to obtain approval for the additional expenditure for materials and labor to install the necessary insulation to provide full coverage.

When the hardboard installation is completed, all overdriven nails and any exposed gaps must be caulked with latex painter's caulk. All hardboard siding and trim must be painted with a suitable exterior latex paint. (One color overall and one coat if the selected paint is designed and applied to adequately cover and seal with one coat.)

Note: The box of the home is approximately 15' 10" wide by 76'6" long with a wall height of 8' along the sidewalls. The endwall and dormer rake peak is approximately 3' higher.

BID AMOUNT FOR REPAIR: #2500.00

TOTAL BID AMOUNT FOR ALL REPAIRS: #2575.00

Bill White
Mr. Bill White, Inspector, AMHC

10-13-89
Date

NOTE 1: Please submit your bid for only the repairs indicated on the report. The Commission will consider adjustment of your bid if additional problems are encountered at the time the repairs are made. You will need to obtain prior approval from the Commission for any additional cost.

Note 2: Total bid for repairs must include all labor, materials, transportation, and removal of any debris due to making the repairs.

B+G Home Improvements - Howard Bradford
Name of person/company submitting bid

1224 Military Rd.
Address

Jacksonville	Ark	72076	982-2814
City	State	Zip	Telephone #

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director

(501) 371-1641

MANUFACTURERS CLAIM ESTIMATE

NAME: Mr. Richard Wayne Hamrick

ADDRESS: P.O. Box 513, Hardy, AR 72542

MANUFACTURER: Remington Homes/Sunrizon Homes, Inc.

ADDRESS: 702 Apollo Ave., Duncanville. TX

DEALER: Big Mac Mobile Homes. Inc.

ADDRESS: 8900 Landers Rd., North Little Rock. AR 72117

HUD LABEL #: TEX426684 & 85 UNIT SERIAL #: 6190A/B

DATE OF PURCHASE: 2-1-88 DATE OF INSPECTION: 2-28-89

PERSONS PRESENT: Mr. & Mrs. Richard Hamrick (owners). Steve Gothard (Arkansas Manufactured Home Commission inspector).

SET-UP AND ANCHORING: See SAA Report.

ITEMS OF COMPLAINT: ESTIMATES

1. The vinyl wall paneling on the roadside marriage wall has a 4" X 2" hole on the right side of the kitchen door.

   SUGGEST: Replace one (1) 4' X 9' 8" sheet of vinyl wall paneling with one of the same type and quality as the damaged one.

   ESTIMATED COST OF REPAIR: ______________
   STD. Ref. 3280.305(b)(f)

2. The vinyl paneling on the curbside marriage wall in the middle bedroom has a 7" X 3" hole on the right side of the bedroom door.

   SUGGEST: Replace on (1) 4' X 9' 8" sheet of vinyl wall paneling with a new sheet of vinyl wall paneling of the same type and quality as the damaged panel.

   ESTIMATED COST OF REPAIR: ______________
   STD. Ref. 3280.305(b)(f)

3. The vinyl wall paneling along the curbside marriage wall in the den is bowed between the studs. Two (2) of the studs on the marriage wall were bowed 1/4" to 3/8".

   SUGGEST: Remove the four (4) sheets of 4' X 9' X 8" vinyl wall paneling. Remove the bowed studs. Replace the bowed studs with new studs and re-install four (4) new sheets of vinyl wall paneling of the same type and quality as the damaged panels.

   ESTIMATED COST OF REPAIR: ____________
   STD. Ref. 3280.305(b)(f)

4. The storm window on the curbside living room wall has broken in the middle from the top to the bottom. The storm window frame was installed at an angle causing it to bind and stress the window pane.

   SUGGEST: Remove the storm window and window frame. Replace the broken pane and reinstall the window frame being sure to reinstall the window frame so that it is not stressed and the window will open and close as intended.

   ESTIMATED COST OF REPAIR: ____________
   STD. Ref. 3280.303(b)

5. The right side double door to the master bathroom was installed with 1/8" X 1" wood screws. The screws have pulled loose at the upper door hinge.

   SUGGEST: Remove the door and reinstall the door to the door frame with four (4) 1/8" X 2" wood screws.

   ESTIMATED COST OF REPAIR: ____________
   STD. Ref. 3280.303(b)

6. The butt edge of the next to the last ceiling panel on the curbside ceiling in the master bedroom has come loose from the bottom cord of the rafter. There is a 3' section loose.

   SUGGEST: Resecure the ceiling board to the bottom cord of the rafter with 1" X 1 1/4" X 16" gage wide crown staples spaced 4" apart. Install a 1 1/4" wide wooden ceiling strip along the butt edge.

   ESTIMATED COST OF REPAIR: ____________
   STD. Ref. 3280.305(h)

7. The counter top on the right side of the kitchen sink is bowed upward 3/8" at three locations. This has caused the formica to bubble up at each location.

    SUGGEST: Replace the 30" X 7' kitchen counter top with one of the same shape, size, color and quality.

    ESTIMATED COST OF REPAIR: ____________
    STD. Ref. 3280.303(b)

8. The 2" formica edge trim on the kitchen side of the kitchen/den room divider has jagged edges and has come loose from the edge at three (3) locations.

    SUGGEST: Replace the 3" X 6' formica edge trim on the room divider with new formica edge trim of the same size, color and quality.

    ESTIMATED COST OF REPAIR: ____________
    STD. Ref. 3280.303(b)

9. The counter top breakfast table in the kitchen has pulled loose from the divider wall on the right side 1/2" to 5/8". The right side of the counter top connection flange is not secured to a structural member.

    SUGGEST: Add a 1 1/2" X 3' wood brace to the backside of the divider wall and resecure the connection flange to the brace using two (2) 1/4" X 1 1/2" wood screws.

    ESTIMATED COST OF REPAIR: ____________
    STD. Ref. 3280.303(b)

10. The curbside kitchen marriage wall is 1" to 1 1/4" longer than the roadside marriage wall at the kitchen door opening.

    SUGGEST: Take the end wall trim and paneling loose and add wood framing to the short roadside marriage wall so that it is flush with the curbside marriage wall. Re-install new paneling and trim of the same size, type, color, and quality.

    ESTIMATED COST OF REPAIR: ____________
    STD. Ref. 3280.305(b)(f)

11. The rear bathroom door frame is 3/8" our of square at the upper left corner.

    SUGGEST: Take the door loose from the door frame. Square the door frame and reinstall the door to the door frame using four (4) 1/8" X 2" wood screws.

    ESTIMATED COST OF REPAIR: ____________
    STD. Ref. 3280.303(b)

12. The door knob on the rear bedroom door will not turn.

    SUGGEST: Replace the door knob with one of the same type and quality.

    ESTIMATED COST OF REPAIR: ____________
    STD. Ref. 3280.303(b)

13. The rear bedroom closet wall framing is pulling away from the interior wall at both ends. The closet walls are secured to the interior walls with six (6) 3" wood screws.

    SUGGEST: Resecure the closet walls to the interior walls with 1/8" X 3" wood screws spaced 12" apart.

    ESTIMATED COST OF REPAIR: ____________
    STD. Ref. 3280.303(b)

14. The rear hall closet door frame is 1/2" out of square at at the upper left corner.

    SUGGEST: Take the closet door loose from the door frame and square the door frame. Reinstall the door to the door frame using four (4) 1/8" X 2" wood screws.

    ESTIMATED COST OF REPAIR: ____________
    STD. Ref. 3280.303(b)

15. Both the closet door frames in the master bedroom are 1/2" out of square at the upper left corner.

    SUGGEST: Take the closet doors loose from the door frames and square the door frames, reinstall the doors to the door frames using four (4) 1/8" X 2" wood screws.

    ESTIMATED COST OF REPAIR: ____________
    STD. Ref. 3280.303(b)

16. The door to the master bedroom has pulled loose from the door frame.

    SUGGEST: Resecure the door to the door frame with four (4) 1/8" X 2" wood screws.

    ESTIMATED COST OF REPAIR: ____________
    STD. Ref. 3280.303(b)

17. The vinyl wall board on the curbside living room wall is cracked 7" at the lower right corner of the living room window.

    SUGGEST: Replace one (1) 4' X 8' sheet of vinyl wall paneling of the same type and quality as the damaged panel.

    ESTIMATED COST OF REPAIR: ____________
    STD. Ref. 3280.305(b)(f)

18. The 2' X 9' X 8" vinyl wall paneling on the left side of the stub wall in the living room has cracked from the bottom right edge of the electrical outlet for a distance of 4".

    SUGGEST: Replace one (1) 2' X 9' 8" sheet of vinyl wall paneling with new paneling of the same type and quality as the damaged panel and reinstall the electrical outlet.

    ESTIMATED COST OF REPAIR: ____________
    STD. Ref. 3280.305(b)(f)

19. The ceiling panel located above the stub wall in the living room has cracked 4" at the bottom right corner of the stub wall.

    SUGGEST: Replace one sheet of 4' X 15' 9" gypsum ceiling board with one new sheet of the same size, type, color, and texture as the existing ceiling board.

    ESTIMATED COST OF REPAIR: ____________
    STD. Ref. 3280.305(h)

20. The accent decor paneling on the front exterior of the unit has one (1) 2" X 2" framing board that is split 4" at the bottom left corner.

SUGGEST: Resecure the split areas with two (2) 8 d. finishing nails spaced 2" apart.

ESTIMATED COST OF REPAIR: ____________
STD. Ref. 3280.303(b)

21. The rear 1/2 of the roadside roof decking has deflected down between the rafters 1/4" to 3/8".

SUGGEST: Remove the shingles from the rear roadside half of the unit. replace the deflected roof decking. Reinstall new roofing felt and reshingle the roof with the same type and color of shingles, being sure to follow the shingle manufacturer's installation instructions.

ESTIMATED COST OF REPAIR: ____________
STD. Ref. 3280.305(b)(h)

Note: The consumers indicated that the curbside roof was deflecting like the roadside roof. The curbside roof was covered with snow and this could not be confirmed. (See Item 21.)

22. The storage drawer at the bottom of the kitchen stove is dropping 3/4" at the left top corner.

Note: No determination of responsibility for this item could be made.

TOTAL ESTIMATED COST OF REPAIR: ____________

The following items of complaint were noted by the consumer. However, they do not constitute structural defects and, therefore, are not covered by the National Manufactured Housing Construction and Safety Standards.

1. Trim loose around cabinets and walls ends.
2. Floor squeaks in living room and den (not confirmed by observation).
3. Decorative ceiling beams in the den and kitchen were cut short and split.
4. Carpet loose throughout home.

MANUFACTURER'S CLAIM ESTIMATE
HAMRICK

Steve Gothard
Steve Gothard, AMHC inspector

3-7-89
Date

Name of person/company giving estimate

Address

City State Zip Telephone#

NOTE: Total estimated cost of repairs must include all labor, materials, and transportation, and removal of any trash due to making the repairs.

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director

(501) 371-1641

MANUFACTURER'S CLAIM BID

RECEIVED
FEB 13 1990
Arkansas
Manufactured Home Commission

NAME: Fred Anderson

ADDRESS: Rt. 4, Box 68N, Pine Bluff, AR 71601

MANUFACTURER: Sunrizon Homes, Inc.

ADDRESS: P.O. Box 568, Desota, TX 75115

DEALER: Varco Mobile Homes, Inc.

ADDRESS: 1414 E. Harding, Pine Bluff, AR 71601

HUD LABEL #: TEX429198/429199 **UNIT SERIAL #:** 501-07219

DATE OF PURCHASE: 5-11-88 **DATE OF INSPECTION:** 1-31-90

PERSONS PRESENT: Mr. Fred Anderson (homeowner) and Tim Dooley (Inspector, Arkansas Manufactured Home Commission)

SET-UP AND ANCHORING:

There were no nonconformances observed regarding the Arkansas Manufactured Home Commission's Rules and Regulations for set up and anchoring.

ITEMS OF COMPLAINT:

1. There are cracks in the ceiling throughout the home.

OBSERVED:

There were eleven (11) cracks observed in the acoustical ceiling at the following locations:

(1) In the living room extending from the ridge beam toward the front door. Ten (10) feet long;

(2) In the kitchen at the skylight extending from the ridge beam toward the front side wall. Eight (8) feet long;

(3) In the living room. 1 foot from the kitchen wall extending from the front sidewall toward the ridge beam. Three (3) feet long;

(4) In the living room at the built in stereo speaker on the back half extending from the ridge beam toward the back sidewall. Three (3) feet long;

(5) In the living room on the hitch end side of the sky light extending from the corner of the sky light toward the ridge beam. One (1) foot long;

(6) In the living room at the front door, six (6) feet from the front sidewall extending toward the ridge beam. Two (2) feet long;

(7) In the master bedroom at the built in stereo speaker extending from the ridge beam toward the back sidewall. Two (2) feet long;

(8) In the master bedroom at the bathroom door extending from the ridge beam toward the bathroom. Three (3) feet long;

(9) In the master bedroom at the bathroom door extending from the ridge beam toward the bathroom. Two (2) feet long;

(10) In the master bedroom on the back sidewall half, 1 foot from the tail light endwall extending from the ridge beam toward the back sidewall. One (1) foot long;

(11) And in the master bathroom, 1' from the tail light endwall extending from the shower toward the back sidewall. Three (3) feet long.

CORRECTIONS REQUIRED:

Scrape all affected areas, retape seam, apply acoustical ceiling material feathering at edges and repaint entire ceiling in the master bedroom, living room and kitchen.

BID AMOUNT FOR CORRECTIONS: $ 500.00

2. There is a crack in the ceiling in the living room at the patio door.

OBSERVED:

There was observed a crack in the acoustical ceiling at the patio door that extends from the ridge beam to the back side wall. The crack is up to 1/4" wide and does not run along the truss in this area. It appears the crack crosses from one truss to another.

CORRECTIONS REQUIRED:

Cut and remove broken ceiling board along trusses on either side being sure all broken ceiling board is removed. Install nailers on trusses, replace with same thickness ceiling board. Tape all seams, apply acoustical ceiling material feathering at edges and repaint entire ceiling as per item #1.

BID AMOUNT FOR CORRECTIONS: $\$\,75^{00}$

3. The ceiling is stained in the kitchen where the sky light leaked.

OBSERVED:

There is a stain on the ceiling in the kitchen at the sky light where there had been a water leak. The homeowner stated the leak has been repaired.

CORRECTIONS REQUIRED:

Apply stain killer to the affected area and repaint the ceiling per item #1.

BID AMOUNT FOR CORRECTIONS: $\$\,20^{00}$

4. There is a hump in the master bedroom floor.

OBSERVED:

There is a depression in the master bedroom floor at the window on the front sidewall. It appears the decking joint did not fall on a floor joist in this area.

CORRECTIONS REQUIRED:

Add an additional floor joist in this area by cutting the bottom board and installing from the bottom.

BID AMOUNT FOR CORRECTIONS: $ 125.00

TOTAL BID AMOUNT FOR CORRECTIONS: $ 720.00

NOTE 1. It was observed the home did not have a ground cover installed. The home has twelve (12) house type vents in the skirting. At the time of the inspections all vents were closed. The Arkansas Manufactured Home Commission suggests the homeowner read the Homeowner's Manual for moisture control and ventilation and follow these requirements.

NOTE 2. Please submit your bid for only the repairs indicated on the report. The Commission will consider adjustment of your bid if additional problems are encountered at the time the repairs are made. You will need to obtain prior approval from the Commission for any additional cost.

NOTE 3. Total bid for repairs must include all labor, materials, transportation, and removal of any debris due to making repairs.

MANUFACTURER'S CLAIM BID
ANDERSON

PAGE FIVE

Tim Dooley, Inspector, AMHC

2-9-90
Date

B+S Home Improvements
Person or company submitting bid

1224 Military Rd
Address

Jacksonville Ark. 72076 982-2814
City State Zip Telephone

ARKANSAS MANUFACTURED HOME COMMISSION

401 West Capitol Avenue, Suite 440
First Federal Plaza
Little Rock, Arkansas 72201

Mary Beth Bowman
Director

(501) 371-1641

MANUFACTURER'S CLAIM BID
(Addendum to Original Report)

NAME: Will Walker

ADDRESS: Route 2, Box 194-D, Fordyce, AR 71742

MANUFACTURER: Sunrizon Homes, Inc.

ADDRESS: 1106 N. Temple Dr., Diboll, TX 75941

28x56
Box

DEALER: Varco Mobile Homes 574-1230

ADDRESS: P.O. Box 3275, Camden, AR

HUD LABEL #: TEX 408078&79 UNIT SERIAL #: 50204168A/B

DATE OF PURCHASE: 7-23-87 DATE OF INSPECTION: 8-15-89

PERSONS PRESENT: Mrs. Will Walker (homeowner), Ricky Davis (representing Varco Mobile Homes), Bill White, Inspector, Arkansas Manufactured Home Commission.

PREFACE:

The original inspection of this home on September 15, 1988 and the resultant Manufacturer's Claim Estimate Report dated October 10, 1988 are apparently lacking in detail as to the severity and suggested methods of correction of the home's roof problems.

The purpose of this addendum to that inspection and claim estimate report is to more accurately describe the existing roof problems and to attempt to determine the best method of repair to correct these problems.

ITEMS OF COMPLAINT: ESTIMATES

1. The roof decking is bowed and warped.

OBSERVATIONS:

The roof decking is warped over most of the roof. Some of the high areas are as much as 4" above the down warped sections and appear to have either pulled loose at the rafter or were never adequately fastened. There is some evidence of broken or defective joists under the sunken areas of the decking. It was also noted that the shingles installed in the valleys along the dormer are not properly lapped and allow water to enter the area between the shingles and the roof underlayment. The roof underlayment has apparently prevented water infiltration into the ceiling cavity.

There are three roof vents along the roof peak which should afford adequate ventilation of the ceiling cavity if unobstructed.

SUGGEST:

Remove all shingles, underlayment, and flashing from the entire roof. Remove roof decking from the areas of warping (approximately 75% of the roof). Inspect the remaining areas for proper fastening of the decking to the trusses and for defective trusses. Repair defective trusses by reinforcing with full length 2" X 4" top chord and web splicing with 3/8" decking material on the opposite side of the truss. (Use removed decking material for web splicing of trusses.)

Install new decking of the original type. Install new roof underlayment (asphalt felt) and asphalt shingles per the shingle manufacturer's installation instructions. Install and properly seal all flashings and roof vents.

NOTE:

The extent of actual repairs to the roof trusses that will be required cannot be determined until areas of the roof decking have been removed. It is the inspector's opinion that no more than six of the trusses will require repairs. When you figure the bid, figure only repairing six (6) trusses. (See Note 1 below.)

BID AMOUNT FOR REPAIR: $2,350 50

TOTAL BID AMOUNT FOR ALL REPAIRS: $2,350 50

MANUFACTURER'S CLAIM BID PAGE THREE
WALKER

Note 1: Please submit your bid for only the repairs indicated on the report. The Commission will consider adjustment of your bid if additional problems are encountered at the time the repairs are made. You will need to obtain prior approval from the Commission on any additional cost.

Note 2: Total estimated cost of repairs must include all labor, materials, transportation and removal of any trash due to making the repairs.

BRANCH HOLLOW M.H.P.
Rt. 7 Box 5068-1
Benton, AR 72015

Name of person/company giving estimate

Dennis Winters
Address Branch Hollow M.H.P.
847-3743

847-3743
City State Zip Telephone #

Bill White
Bill White, Inspector, AMHC

5-21-89
Date

House is [illegible]
[illegible]

CONSUMER COMPLAINT FORM

Mail to: Arkansas Manufactured Home Commission
401 West Capitol Ave., Suite 440
First Federal Plaza
Little Rock, AR 72201
(501) 371-1641

Office Use Only
C.C. # 90-070
Assigned to: Bri. Claim

Name of Person Filing Complaint: DR + MRS JOSEPH D. CALHOUN

Address: #31 SHANNON Dr (City) Little Rock (State) AR (Zip) 72207

Telephone: (Home (501) 663-3944 (Work (501) 666-9400 (Other) —

Manufacturer: SUNRIZON Homes Inc

Address: DRAWER P 1104 N Temple Drive (City) DiBOLL (State) Tx (Zip) 75941

Dealer: COFFEY - CLIFTON Inc Mobile Home SALES

Address: I 40 South (City) CONWAY (State) AR (Zip)

Unit Serial # 502-02433 HUD Label # TEX 355521

Date Purchased: 5-7-85 Purchased: [✓ New] Used (Circle One)

ALL BLANKS ABOVE MUST BE COMPLETED IN FULL IN ORDER FOR US TO PROCESS YOUR COMPLAINT

Description of Complaint

Note: Please list each item separately, be brief and specific.

1. Outside Wall Covering (hardboard siding) in Masonite. Exposed silicone
2. Caulking around Window frames and around the
3. eaves allows rainwater to seep inside the
4. outer walls to deteriorate throughout large
5. surface areas. A person can literally push his
6. finger through the walls.
7.

J D Calhoun 4-23-90
Signature Date

NOTE: ATTACH A READABLE COPY OF YOUR FINAL CONTRACT TO THIS COMPLAINT FORM.

Senator **BRYAN**. Thank you very much, Ms. Bowman.

We will now hear from you, Ms. Meier, as our batting clean-up.

Ms. **MEIER**. Thank you.

STATEMENT OF MICHELLE MEIER, COUNSEL FOR GOVERNMENT AFFAIRS, CONSUMERS UNION, WASHINGTON, DC

Ms. **MEIER**. Consumers Union has been in existence since 1936. We are a membership organization with over 300,000 members across the country.

I was actually going to begin with this affordability analysis, but since my co-panelists have gotten into that, I will only briefly state that we find it very ironic that the sponsors of the weakening amendments that have now been incorporated into the housing bill on the House side raise the affordability argument in support of their amendments.

But, as we all know and other panelists have pointed out, those amendments reflect a short-sided affordability concept. Any argument along those lines involving affordability must not only consider lower purchase price.

If we just focus on making the purchase price lower we will see increase in shoddy products and shoddy workmanship and lack of durability, which is essentially the problem that we see with the amendments that were adopted on the House side.

The bottom line on them is that they will decrease the quality of the product, the durability of the product under the Federal Program and lead to the product being less affordable for manufactured housing homeowners.

The program is already riddled with weaknesses and problems. Lack of vigorous implementation by HUD. I go into some of those problems in my testimony.

But, the basic point I want to make is that we need improvements to the Federal program. We need the Federal program strengthened. We need increased congressional oversight of the program rather than back-tracking, which is where we are going if the provisions in the House bill are enacted into law.

Our testimony identifies the three major problems that we see in the provisions incorporated in the House bill. There are other problems, but we focused on what we regard as the three major problems that will lead to the decreasing quality and durability of manufactured housing.

Here though I will focus on the one amendment incorporated into the House bill about which we have greatest concern, which is the effect of the amendment made in the House bill on the notification and correction requirements that are now imposed on manufactured housing manufacturers.

To understand the problems created by the House bill, one has to understand what current law requires and I will particularly focus on the notification provisions in current law. And I go through citing current statutes and quoting the House bill amendments in my testimony.

Basically, right now under current law, a manufacturer has to notify homeowners if the home has a defect in it. And the current law defines a defect to mean:

A problem with the home that renders the home or part of it unfit for its intended purpose.

Now, the proponents of the amendments on the House side have criticized current law in this regard for requiring manufacturers to notify homeowners of minuscule problems, minimal problems like faulty springs on backdoors, loose screws, that sort of thing, and saying that the amendments were necessary to eliminate the burden of notification in those circumstances.

That is simply not an accurate description of what current law requires.

As I mentioned, the definition in current law of "defect" states that the problem has to be so serious that the home or part of it is rendered unfit for its intended purpose. And in our testimony, we cite some of the defects that HUD found in thousands of homes produced by one manufacturer, Fleetwood Enterprises, that caused HUD to feel that Fleetwood should be making the notifications required under current law.

I think it is helpful to understand what some of those defects were, to understand what we are talking about in terms of protecting homeowners by maintaining current law.

The defects in those homes, according to HUD—and there were many of them—included, for example, the faulty placement of the perpendicular walls in the home that caused the home to be unable to withstand wind forces.

There were other problems that would have caused the walls to separate from the floors, or the walls to separate from the roofs.

And, in fact, we have included the notification that had wanted Fleetwood to send the homeowners which, in plain English, describes what the problems were and how one could detect them.

And you will see some of those symptoms, including buckling, crackling interior walls or paneling, loosening or separation of the joints between walls and the roof, and uneven floors and the inability to open doors. These are all very, very serious problems that would be most severe, according to the notice that HUD would have required Fleetwood to provide, when the homeowner wanted to entertain people, when there was a load in the house either caused by numbers of people or furniture. So you can see the notification in this case would have been triggered by a very severe problem, would have alerted the homeowner that there was the problem, what the cause of the problem was and encouraged the homeowner to get it fixed to avoid exacerbating the problem and the cost of repair.

I will end it here simply by stating that we go more into the problems that have been involved with notifying consumers under current law in our testimony.

I will close by joining my colleagues at this table in stating that:

The amendments in the House bill are anticonsumer. They roll back current protections when one should be strengthening the legislation. And we believe that they should simply be chopped from any Housing bill that gets enacted into law this year.

Senator **Bryan**. Ms. Meier, we thank you very much. Let me pick up on that line of questioning and ask some questions, if I may.

The thrust of your testimony, both written and oral, is that the provisions in the House amendment as it relates to notification of defects and corrections weakens the consumer protection currently existing under the present law.

Is that a fair characterization?

Ms. **Meier**. Yes, definitely.

Senator **Bryan**. Could you give us some other examples of the kinds of things which, under current law, a mobile homeowner is entitled to notice of defect by the manufacturer and the types of things that the manufacturer must correct at his expense which would no longer be required in your view if the amendments in the House, the House process are included in this legislation?

Ms. **Meier**. In the Fleetwood case, for example, the floor joists were failing according to HUD to conform with those standards in that they had too much flexibility in them.

Some amount of bending is permissible under the Federal standards, but only so much. And the result of this problem was, again, the possibility that because of the bending in the floor boards, that you would have a separation of the walls from the floors, or the walls from the roof.

You would have leaking and eventual rapid deterioration of the home.

Now, HUD did not regard, and I think it was probably a fair reading of the law, HUD did not regard these problems or any of the other ones that I have mentioned as creating a safety risk for the homeowner.

They created a durability and quality problem. So, under the current law, because they were failing to conform with the standard, they constituted a defect. Notification was required.

Under the House bill, the law wouldn't require the manufacturer to notify the homeowner unless the defect presented a safety hazard for the consumer.

In fact, the problem would have to be so severe that it threatened either severe personal injury or death. It has to be a very serious safety problem. The notification requirement under the House bill wouldn't get triggered in these examples where we are foreseeing very serious durability problems.

Senator **Bryan**. Ms. Meier, I take it from your testimony that, both under current law and the proposed law, that there would not be an obligation on the part of the manufacturer to correct that defect at its own expense.

Ms. **Meier**. We believe, under a fair interpretation of current statutory law, that there would be an obligation to correct, for example, the defects involved in the Fleetwood case.

However, there is some ambiguity in current law on that question. And, unfortunately, HUD has implemented the act to interpret the ambiguity in favor of not requiring the manufacturer to correct.

Senator **Bryan**. Does this ambiguity relate to whether or not you construe the two provisions that are in existing law in the disjunctive? That is either/or or in the conjective, in which case, in the latter, you would have to have both of the conditions in existence to trigger the obligation to repair at the manufacturer's expense in the former or in the disjunctive, either would suffice?

Ms. **Meier**. Exactly. That is the ambiguity in the law. The law right now is silent on the question of whether both conditions have to be met or only one of two conditions that would trigger the correction requirement have to exist.

We believe that a fair interpretation of the statute, looking towards congressional intent, the purpose of this statute being to enhance affordability, enhance durability, would require that section, that ambiguity to be interpreted to only require one of the two circumstances to exist to trigger the correction.

But, as I say, HUD has more narrowly interpreted it so that manufacturers under current practice are only required to provide the notification if a safety problem is involved and an error in design or assembly of the home.

I would like to point out and I got into it a little bit more that, even if one agreed with HUD's interpretation, the House amendment will even further narrow the circumstances under which correction is required.

But, the major point is that, in either case, no matter how you regard HUD's interpretation as conforming or not conforming with congressional intent, Congress, if there are amendments made in this area during this Congress, is going to be sort of re-deciding its intent here.

Because, if we go along with HUD's current interpretation, that will be a legislative sanctioning of HUD's interpretation and a reaffirmation of it.

So, I think the question of when manufacturers must correct their own mistakes really needs to be addressed. It is an important public policy question.

[The complete prepared statement of Michelle Meier follows:]

Consumers Union
Publisher of Consumer Reports

Testimony of

Michelle Meier

Counsel for Government Affairs

Consumers Union

on the Manufactured Housing Construction
and Safety Standards Act of 1974

Subcommittee on Housing and Urban Affairs

Committee on Banking, Housing, and Urban Affairs

U.S. Senate

July 26, 1990

Good morning, Mr. Chairman and all distinguished members of this subcommittee. Consumers Union[1] appreciates the opportunity to testify today on the federal program for manufactured housing. We are grateful to you, Chairman Bryan, for your strong interest in this program and for calling these hearings. We hope through your leadership, and that of other members of this subcommittee, that improvements will be made in the program rather than the anti-consumer amendments that have been incorporated into the housing re-authorization bill in the House.

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[1] Consumers Union is a nonprofit membership organization, chartered in 1936 under the laws of the State of New York to provide information, education, and counsel about consumer goods and services and the management of family income. Consumers Union's income is derived solely from the sale of Consumer Reports, its other publications and films. Expenses of occasional public service efforts may be met, in part, by nonrestrictive, noncommercial contributions, grants and fees. In addition to reports on Consumer Union's own product testing, Consumer Reports, with approximately 4.5 million paid circulation, regularly carries articles on health, product safety, marketplace economics and legislative, judicial and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.

Washington Office
Suite 520 2001 S Street Northwest · Washington D C 20009 · (202) 462-6262

As you know, earlier this year the Housing Subcommittee of the House Banking Committee adopted several amendments to the National Manufactured Housing Construction and Safety Standards Act of 1974 (the 1974 Act). These amendments would have gutted many portions of current law, to undermine its effectiveness in protecting the interest of consumers. Some of these anti-consumer amendments were eventually dropped in the full Banking Committee of the House. However, the House bill still contains several provisions that will seriously weaken the 1974 Act and the ability of states to protect the consumers of modular housing.

We urge you and your Senate colleagues to reject all of these weakening amendments. If any amendments to the 1974 Act are enacted into law this year, they should strengthen the federal program, not weaken it. If the weakening amendments incorporated in the House bill can not be eliminated from the final legislation, we urge you and all your Senate colleagues to reject the entire package of amendments related to the manufactured housing program. This subcommittee, and its House counterpart, can then carefully study the current program next year and construct whatever changes are needed after careful thought and study.

Over 6 million families live in manufactured housing. The average income of owner-occupants in 1987 was $18,232. The quality of their lives and the lives of future homeowners is seriously at stake in this legislation. These families are counting on your support as the housing bills move forward.

THE WEAKNESSES OF THE CURRENT PROGRAM

The current federal program already contains fundamental flaws that compromise consumer protection. We will briefly discuss some of these problems to establish a context for our discussion of the weakening amendments incorporated in the House bill. This discussion will show that the current program cannot afford to be weakened further.

First, the federal construction and safety standards issued by HUD are weaker than the standards that apply to stick built and modular housing under state and local laws. We base this conclusion on two sources whom we view as very credible on this issue. Our first source is the National Conference of States On Building Codes and Standards (NCSBCS), a non-profit organization funded by the states. Because that organization is engaged in either monitoring or consulting activities in connection with all three types of housing, it is an organization uniquely qualified to comment on the relative strengths of the various codes applicable to stick built, modular and manufactured housing.

Our second source is HUD itself. In recent testimony before the House Subcommittee on Housing, HUD's Deputy Assistant Secretary for Single Family Housing stated that the federal code for manufactured housing "is not as rigorous as the code for site-built or modular homes and can best be understood as a code for lighter weight construction." Testimony of Ronald A. Rosenfeld, Deputy Assistant Secretary for Single Family Housing, HUD (May 24, 1990) at 4.

Second, the federal standards are out-of-date. The federal standards have not been up-dated or revised in their entirety since they were initially issued in 1976.

Third, the federal inspection program that is supposed to ensure that each home conforms with the federal standards operates on a hit-or-miss basis. The best way to illustrate this conclusion is to compare the inspection system for manufactured housing with the inspection program for stick built housing. In the later case, each home is often inspected several times during the construction process. For example, according to NCSBCS, in Fairfax and Loudoun County, Virginia, stick built homes are separately inspected for foundations, framing, plumbing and mechanical systems, structure, and final finish. Under the federal manufactured housing program, each home is inspected only once. Once the frame of the home has passed inspection, for example, the entire home is deemed to comply with the federal standards and the home receives the HUD sticker. According to estimates from HUD, must home are subject to less than 15 minutes of inspection.

Fourth, even this minimal inspection system is riddled with conflicts of interest that undermine its potential effectiveness. The major conflict arises from the current practice under which manufacturers are free to select the private company that will conduct the inspection, and the inspection companies are compensated directly by the manufacturers. This payment system creates an inherent and blatant conflict of interest. The inspection company has every incentive to "go easy" on a manufacturer, even in the face of non-conforming designs or construction practices, because the manufacturer is free to take his business elsewhere.

Finally, the current program fails to effectively protect consumers because HUD and some of the states have not administered it forcefully. One indication of HUD's lax administration is its failure to regularly file the bi-annual reports on the program required by the Act. Indeed, HUD has not filed a report since 1986.

HUD has also failed to implement the spirit and intent of section 615 of the Act, which requires manufacturers to notify consumers about defects in their homes and, in certain circumstances, to correct them. We believe the law is clearly intended to require manufacturers to correct a defect whenever the defect presents a safety hazard or the defect reflects an error in design or assembly of the home. HUD has implemented the Act to require correction only when both conditions are present. This misguided interpretation of the law unfairly requires consumers to repair serious problems caused by the manufacturer. We discuss it more fully later in this testimony.

NEW PROBLEMS CREATED BY THE HOUSE BILL

Our testimony discusses three of the amendments included in the House bill that will significantly harm consumers:

THE HOUSE BILL NARROWS THE CIRCUMSTANCES UNDER WHICH MANUFACTURERS MUST NOTIFY CONSUMERS ABOUT DEFECTS IN THEIR HOMES AND CORRECT THEM

Section 615 of the current law requires a manufacturer to notify consumers about problems in the manufactured home. In certain circumstances, it also requires manufacturers to correct the problems at no expense to the homeowner. The House bill significantly narrows the circumstances under which manufacturers are required to take these steps to protect consumers. As a result, the House bill will make manufactured housing less durable and less affordable for consumers.

To understand the impact of the amendments made by the House bill, one must first understand the requirements of current law. We will discuss the notification and correction sections of current law separately.

Circumstances Under Which Notice Is Required under Current Law

Section 615(a) of current law sets forth two circumstances under which notifications are required -- 1) when the home contains a defect involving a federal construction or safety standard and 2) when the home contains a defect that constitutes an imminent safety hazard. It reads:

> Every manufacturer of manufactured homes shall furnish notification of any defect in any manufactured home produced by such manufacturer which he determines, in good faith, relates to a Federal manufactured home construction or safety standard or contains a defect which constitutes an imminent safety hazard to the purchaser of such manufactured home, within a reasonable time after such manufacturer has discovered such defect. (emphasis added)

As this language makes clear, the notification requirements are only triggered when the home contains a defect. Section 603(3) defines the term "defect" to mean "any defect in the performance, construction, components, or material of a manufactured home that renders the home or any part thereof not fit for the ordinary use for which it was intended."

Thus, contrary to some assertions made by those who supported the changes made in the House bill, current law does not require manufacturers to notify consumers about every lose screw or faulty spring in the home. Notice is only required if the problem is so severe that the home, or a part of it, is rendered unfit for its intended purpose.

For example, in 1985 HUD invoked section 615(a) in an attempt to get Fleetwood Enterprises, Inc. to notify homeowners about several defects in the construction of the walls, roofing and floor joists of several thousand homes it had manufactured. Although HUD eventually entered into a settlement agreement with Fleetwood, under which the company agreed to pay a civil fine of approximately $1 million without having to issue notifications, the case provides good examples of the types of defects that can trigger the notification requirement.

The defects involved in that case, and the damage they can cause the home and the homeowner, are well described in the notifications HUD wanted Fleetwood to give homeowners. Copies of the proposed notifications, in their entirety, are attached to this testimony. Here we excerpt key portions of the proposed notification regarding the non-conforming floor joists:

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Floor Deflection (Bending)

Your home is built with two steel I-beams running down each section of the home if it is a multisection home or down the middle of the home if it is a single section home. Laid perpendicularly across these I-beams are wooden beams called floor joists. The joists support the floors in your home. The weight of the home's roof, walls, furniture and occupants will cause these joists to bend at the ends, near the long side walls of your home. The Federal Standards permit these joists to bend a certain amount. The floor joists in your home, however, may bend more than is permitted by the Federal Standards.

Consequences of Non-conformance
with the Federal Standards

Because the floor joists in your home may bend more than the Federal standards allow, you may experience several types of problems in your home. These problems include: (1) humping, bowing or crowning of floors; (2) unevenness of floors; (3) doorways, windows or similar openings out of plumb, not opening, or opening with difficulty; (4) loosening or separation of the joints between walls and the roof or the floor; (5) roof leaks; (6) drooping of the roof near the long exterior walls of

> the home; (7) buckling, racking, cracking or distortion of interior walls or paneling. These problems may be more apparent or severe during or immediately after: (1) many people are present in your home; (2) heavy furniture or appliances are placed near the long exterior walls of your home; or (3) snow is on the roof of your home. (emphasis added)

Clearly, the defects involved in this case are not minor. They can cause problems that make the home unattractive, unpleasant and eventually uninhabitable. They will cause the home to rapidly depreciate in value. They will cost the homeowner significant sums of money to repair.

Circumstances Under Which Notice Is Required Under House Bill

Again, the House bill would seriously limit the circumstances under which manufacturers would be required to notify consumers about the defects in their homes. Notice would only be required when the home contains a defect that threatens the safety of the homeowner, and even then, only when the problem presents a risk of "severe personal injury or death."

As amended by the House bill, section 615(a) would read as follows:

> Each manufacturer of manufactured homes who determines, in good faith, that any manufactured home produced by the manufacturer contains a serious defect shall furnish notification of the serious defect to the purchaser of the manufactured home within a reasonable time after the manufacturer has discovered the serious defect. (emphasis added)

The House bill defines the term "serious defect" to mean "a defect in the performance, construction, compliance, or material of a manufactured home that constitutes a safety hazard." A "safety hazard" is defined to mean an "unreasonable risk of death or severe personal injury that proximately is caused by (A) an error in design or assembly of the manufactured home by the manufacturer; or (B) the failure to comply with a Federal manufactured home construction and safety standard."

If the House amendments were adopted into law, consumers would not be notified of the sorts of defects that were involved in the Fleetwood case. None of the problems in that case threatened the safety of the homeowners. They seriously threatened the homeowners' ability to enjoy their home. (Homeowners could not entertain a large group of friends without potentially causing the floors to separate from the roof or floor.) They also threatened the value of the home. (Homeowners will find it difficult to sell a home with buckled floors and walls that are separated from the roofing or flooring.) They also threatened the savings of the homeowners. (According to the proposed notification, an engineering analysis of the floor joints alone would cost the homeowner in the range of $100 to $500. The repair cost in connection with the floor joists alone would cost an additional $100 to $500.) Simply because the defects would not threaten the consumers' very lives, the manufacturer would be relieved of any obligation to inform consumers about them, despite their serious consequences.

The Value of Notifying Consumers About Defects That Render the Home or a Part Thereof Unfit for Its Intended Purpose

Notification alone, even when the manufacturer is not required to repair the defect, protects consumers in several ways. First, it alerts consumers to the fact that there may be a serious problem with their home. When they receive the notice, some consumers may have already noticed the symptoms of the problem (e.g., buckling floorboards or jamming doors). The notification will inform them of the cause of the problem and the steps needed to correct it. Consumers who have not yet experienced any of the symptoms of the problem will be alerted to watch for them. Both groups of consumers will be notified of the serious consequences of the defect, and thereby motivated to correct the problem before it reaches an advanced stage. This will save homeowners time and expense in the long run.

Second, even when not required by law, some manufacturers repair known defects in the products they have sold to maintain goodwill with their customers. A manufacturer has little incentive to engage in these voluntary corrective activities, however, if the consumer is not even aware that there is a problem with the home. Consequently, notification can trigger corrective actions that would not otherwise occur. Obviously, these corrective activities enhance the durability and value of the home, and, by saving the homeowner the cost of repair, they enhance its affordability.

Third, the notification requirements alone create an incentive for manufacturers to comply with the federal standards in the first place, when the home is being designed and constructed. Manufacturers have an incentive to adopt the quality control systems necessary to produce conforming homes if they know that the production and sale of non-conforming homes will trigger the notification requirements.

Circumstances Under Which Manufacturers Are Required to Correct Defects Under Current Law

Under current section 615(g), a manufacturer required to notify the homeowner under section 615(a) is also required to correct the defect, at no expense to the homeowner, if two circumstances exist. First, if "the defect presents an unreasonable risk of injury or death to occupants of the affected manufactured home or homes." Second, if "the defect can be related to an error in design or assembly of the manufactured home by the manufacturer."

The statute does not expressly specify whether correction is required when one of these two circumstances exists, or only when both of them exist. There is neither an "or" or an "and" between them.

We believe that the statute itself is clearly intended to require the manufacturer to correct the defect if either one of these two circumstances exists. The purpose of the Act, among others, is to reduce the costs of property damage and to improve the quality and durability of manufactured homes. (See section 602) These purposes cannot be met if the manufacturer is only required to correct its own mistake when the mistake poses a safety risk to the consumer.

HUD, in keeping with its less-than-exemplary enforcement of the Act, has apparently adopted the narrow interpretation of the statute. Under its interpretation of the law, as reflected in agency practice, manufacturers are only required to correct a defect when both circumstances set forth in section 615(g) are present. HUD's position in the Fleetwood case, for example, was that the manufacturer was required to notify homeowners of the defects, but not to correct them. The burden was on the homeowner to correct the manufacturer's serious mistakes.

Circumstances Under Which Manufacturers Are Required to Correct Defects Under the House Bill

Under the House bill, the manufacturer is required to correct a defect whenever the limited circumstances arise requiring the manufacturer to notify the consumer about the defect, i.e., when the defect presents an unreasonable risk of death or severe personal injury. Regardless of one's interpretation of current law, the House bill will narrow the circumstances under which the manufacturer is required to correct a defect. For example, even if one adopts HUD's narrow interpretation regarding the intent of current law, correction would be required if a design error caused a defect that posed any form of safety threat to the homeowner. The risk would not have to threaten severe personal injury or death, as is required under the House bill.

Beyond these differences, the House bill codifies HUD's narrow interpretation of the law. If Congress enacts these correction provisions into law, Congress will be sanctioning HUD's faulty interpretation of current law and the bad public policy on which that interpretation is based.

If any amendments to the 1974 Act are enacted this year, they should include a clarification on this point. Congress should insert an "or" between paragraphs (1) and (2) of section 615(g). If Congress enacts amendments without making this technical correction to the current law, Congress will be implicitly endorsing HUD's current policy and undermining the durability and affordability of manufactured housing.

THE HOUSE BILL WEAKENS THE ABILITY OF STATES TO PROTECT CONSUMERS WHO PURCHASE MODULAR HOUSING

Under current law, manufactured housing, by definition, is housing constructed with a permanent chassis. (See Section 603(6)). Because of this definition, and the pre-emptive nature of the federal standards for manufactured housing, states have little or no ability to require that factory-built housing built on a permanent chassis conform with stronger state standards.

However, states can impose stronger standards on factory-built housing that is not built on a permanent chassis, and many of them do. This form of housing is known as modular housing. According to NCSBCS, 36 states have modular housing codes. Again, even the Deputy Assistant Secretary of HUD, in his May 24 testimony before the House subcommittee, acknowledged that the federal manufactured housing standards are less "rigorous" than the standards that states require modular housing to meet.

The House bill deletes from the current definition of manufactured housing the requirement that the home be constructed on a permanent chassis. As a result, the House bill would sweep modular housing into the federal program, and pre-empt the numerous state codes that ensure a more durable and higher quality home.

THE HOUSE BILL LIMITS HUD'S ABILITY TO CONDUCT THE RESEARCH AND TESTING THAT IS NECESSARY TO PROTECT CONSUMERS FROM SHODDY PRODUCTS

The House bill contains contradictory provisions regarding the uses to which HUD can put the money it collects from manufacturers through fees. On one hand, the bill amends current section 608 to authorize HUD to use fee money to conduct research, testing, and training. On the other hand, the bill amends current section 609 to only allow fee monies to be used for research and testing. Perhaps the contradictions between these two sections are merely an oversight on the part of the sponsors of the House amendment. If so, they need to be resolved through a technical correction in conference in favor of the broader authority granted in section 608.

Further, section 608 makes HUD jump through cumbersome and unjustifiable hoops to use fee money to conduct research. Before the fee money can be used for this purpose, HUD must go through notice and comment rulemaking. Because notice and comment rulemaking is time-consuming and resource-intensive, this procedural obstacle will seriously deter HUD from ever engaging in research, however necessary the research may be.

Research can be extremely important to give HUD the information it needs to enforce the standards, or to determine whether the standards need to be revised. The law should not restrict HUD's discretion to use fee money for this purpose, at least until there is some evidence, which no one has presented to date, that HUD has abused its discretion.

Appendix 4

Notice to Owners of Particular
Manufactured Homes Produced
by
Fleetwood Homes of Texas, Inc.
and
Fleetwood Enterprises, Inc.

This notice is sent to you by Fleetwood Homes of Texas, Inc. and Fleetwood Enterprises, Inc. in accordance with the requirements of the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5401. The Secretary of the United States Department of Housing and Urban Development has determined that your home does not comply with applicable Federal manufactured home construction and safety standards (Federal Standards).

I. Shear Wall Strength

Your home is built with shear walls, which are many of the walls perpendicular to the long side walls of the home. The purpose of a shear wall is to enable the home to withstand the force of the wind on the side walls of the home. At least one of the shear walls in your home is constructed in such a way that it is unable to withstand the wind forces specified by the Federal Standards without experiencing overstress. This failure of the shear wall to be able to withstand the design wind loads without overstress is a violation of the Federal Standards.

II. Connection of Shear Walls to the Floor

Shear walls must transfer the wind loads into the floor system of your home. This is done in part by the screws which connect the shear wall to the floor. Those screws which attach the shear wall(s) of your home to the floor are not of sufficient size, length or quantity to withstand the wind forces specified by the Federal standards without experiencing overstresses.

III. Connection of the Floor to the I-beams

The wind loads which are transferred into the floor must be transferred to the chassis (I-beams) under your home. This is done by bolts which connect wooden beams (floor joists) to the I-beams. The bolts used in your home are either not in the right places or not adequate to transfer this load.

Consequences of Nonconformances With The Federal Standards

The Federal Standards require that manufactured homes be capable of withstanding wind forces which are as strong as those encountered by most manufactured homes. Your home is not as capable of withstanding wind forces as are homes which are built in conformance with the Standards. As a result, your home is more likely to be damaged by an extreme wind condition than it should be. The type of problems you might encounter because of the failure of your home to comply with the Federal Standards are: (1) loosening or separation of joints between walls and the roof or the floor; (2) buckling, racking, cracking, distortion or loosening of interior walls or paneling; (3) excessive deflection (bending) of the floor near the shear wall; or (4) doors, windows and like openings out of plumb.

These problems are most likely to become apparent during or immediately after a severe wind storm.

In order to determine what repairs must be made to your home, you must consult with a qualified structural engineer. We have enclosed with this notice a copy of the floor plan for your home and information relating the type of shear wall in your home, the shear capacity of the shear wall, the fasteners used to attach the shear walls to the other components of the home and a complete description of the floor design of your home. This information will help the engineer determine what corrective action is necessary in order to bring your home into compliance with the Federal standards.

The engineer may need additional information concerning the construction of your home to determine what corrective action is cost effective and appropriate. The engineer may have to inspect your home in order to obtain such additional information. It may also be necessary for the engineer to obtain additional information from Fleetwood Enterprises, Inc. at 3125 Myers Street, P.O. Box 7638, Riverside, California 92523 or from Fleetwood Homes of Texas, Inc. at 6605 Sanger Avenue, Suite No. 1, Waco, Texas 76710.

It is estimated that the cost for an engineering analysis of your home for the purpose of determining what shear wall repairs are necessary, exclusive of travel time, will be in the range of $300 to $800.

In addition, you can expect the cost of the repairs recommended by the engineer to cost between $100 and $500.

You will have to pay these costs. Fleetwood Enterprises, Inc. and Fleetwood Homes of Texas Inc. will not pay them.

This notice does not limit your rights under any contract or other applicable law. You may have further rights under contract or other applicable law.

You may submit a complaint to the Department of Housing and Urban Development, G. Robert Fuller, Chief, Compliance Branch, Manufactured Housing and Construction Standards Division, 451 7th Street, S.W., Washington, D.C. 20410 if you believe that this notification or remedy described herein is inadequate.

Appendix 5

Notice to Owners of Particular Manufactured Homes Produced by Fleetwood Homes of Texas, Inc. and Fleetwood Enterprises, Inc.

This notice is sent to you by Fleetwood Homes of Texas, Inc. and Fleetwood Enterprises, Inc. in accordance with the requirements of the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5401. The Secretary of the United States Department of Housing and Urban Development has determined that your home does not comply with applicable Federal manufactured home construction and safety standards (Federal Standards).

Metal Straps Which Hold Your Roof Down (Ridge Beam Uplift Straps)

Your home is built with metal straps which help to hold the roof in place during heavy winds. These straps are connected to wooden components of your home by staples. The wooden components include a ridge beam located in the roof and running along the length of the home and posts or wall sections which support the ridge beam. The straps are not visible and are located near the ceiling and floor of your home. Neither the strap nor the staples in your home are strong enough to resist the wind forces specified by the Federal Standards without experiencing overstress. This failure of the straps and fasteners to be able to withstand the design wind loads without overstress is a violation of the Federal Standards.

Consequences of Nonconformances with the Federal Standards

The Federal Standards require that manufactured homes be capable of withstanding wind forces which are as large as those encountered by most manufactured homes. The Federal Standards also require that the connections between roofs and walls be capable of withstanding these forces. Some of the connections between the roof and walls in your home are not as capable of doing this as are the connections in homes which are built in conformance with the federal Standards. As a result, your home is more likely to be damaged by a severe wind than it should be. The type of problems you might encounter because of the failure of your home to comply with the Federal Standards are: (1) roof leaks; (2) separation of the joint between the ridge beam and one or more support posts (these may be behind walls and the ceiling); (3) partial or complete separation of the roof structure from the wall structure; (4) excessive upward deflection (bending) of the floor at support posts (these may be behind walls) during or immediately after a severe wind storm.

Enclosed with this notice is a copy of the floor plan for your home and information relating the type of ridge beam uplift strap used in your home and the methods used to fasten the strap to the home.

In order to determine what repairs must be made to your home, you must consult with a qualified structural engineer. We have enclosed with this notice the following information which the engineer will need in order to determine what corrective action is necessary in order to bring your home into compliance with the Federal Standards: (1) a copy of the drawing which shows the ridge beam uplift strap and fasteners which were installed in your home; and (2) a copy of the floor plan for your home which shows the locations of the ridgebeam support posts.

The engineer may need additional information concerning the construction of your home in order to determine what corrective action is cost effective and appropriate. The engineer may have to inspect your home in order to obtain such additional information. It may also be necessary for the engineer to obtain additional information from Fleetwood Enterprises, Inc. at 3125 Myers Street, P.O. Box 7638, Riverside, California 92523 or from Fleetwood Homes of Texas, Inc. at 6605 Sanger Avenue, Suite No. 1, Waco, Texas 76710.

It is estimated that the cost for an engineering analysis of your home for the purpose of determining what ridge beam uplift strap repairs are necessary, exclusive of travel time, will be in the range of $100 to $500.

In addition, you can expect the cost of repairs recommended by the engineers to be between $100 and $300.

You will have to pay these costs. Fleetwood Enterprises, Inc. and Fleetwood Homes of Texas, Inc. will not pay them.

This notice does not limit your rights under any contract or other applicable law. You may have further rights under contract or other applicable law.

You may submit a complaint to the Department of Housing and Urban Development, G. Robert Fuller, Chief, Compliance Branch, Manufactured Housing and Construction Standards Division, 451 7th St., SW, Washington, D.C. if you believe that this notification or remedy described herein is inadequate.

Appendix 6

Notice to Owners of Particular Manufactured Homes Produced by Fleetwood Homes of Texas, Inc. and Fleetwood Enterprises, Inc.

This notice is sent to you by Fleetwood Homes of Texas, Inc. and Fleetwood Enterprises, Inc. in accordance with the requirements of the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5401. The Secretary of the United States Department of Housing and Urban Development has determined that your home does not comply with applicable Federal manufactured home construction and safety standards (Federal Standards).

Floor Deflection (Bending)

Your home is built with two steel I-beams running down each section of the home if it is a multisection home or down the middle of the home if it is a single section home. Laid perpendicularly across these I-beams are wooden beams called floor joists. The joists support the floors in your home. The weight of the home's roof, walls, furniture and occupants will cause these joists to bend at the ends, near the long side walls of your home. The Federal Standards permit these joists to bend a certain amount. The floor joists in your home, however, may bend more than is permitted by the Federal Standards.

Consequences of Nonconformances with the Federal Standards

Because the floor joists in your home may bend more than the Federal Standards allow, you may experience several types of problems in your home. These problems include: (1) humping, bowing or crowning of floors in the center of the home; (2) unevenness of floors; (3) doorways, windows or similar openings out of plumb, not opening, or opening with difficulty; (4) loosening or separation of the joints between walls and the roof or the floor; (5) roof leaks; (6) drooping of the roof near the long exterior walls of the home; (7) buckling, racking, cracking or distortion of interior walls or paneling. These problems may be more apparent or severe during or immediately after: (1) many people are present in your home; (2) heavy furniture or appliances are placed near the long exterior walls of your home; or (3) snow is on the roof of your home.

To reduce the chance that the consequences described above will arise before your home can be repaired, avoid placing heavy loads in your home, especially near the long exterior walls.

Enclosed with this notice is a copy of the floor plan for your home and information relating the type of floor joists used to support the floors of your home.

In order to determine what repairs must be made to your home, you must consult with a qualified structural engineer. We have enclosed with this notice the following information which the engineer will need to determine what corrective action is necessary in order to bring your home into compliance with the Federal Standards:

Joist size:

Joist spacing:

Joist material:

Floor decking:

I-beam spacing:

Floor width:

Roof load required by standards:

Side wall framing:

Side wall height:

Exterior siding material:

Roof Type:

Insulation type:

Insulation R value:

Outrigger size:

Outrigger spacing:

[Fleetwood to fill in information in blank spaces]

The engineer may need additional information concerning the construction of your home in order to determine what corrective action is cost effective and appropriate. The engineer may have to inspect your home in order to obtain such additional information. It may also be necessary for the engineer to obtain additional information from Fleetwood Enterprises, Inc. at 3125 Myers Street, P.O. Box 7638, Riverside, California 92523 or from Fleetwood Homes of Texas, Inc. at 6605 Sanger Avenue, Suite No. 1, Waco, Texas 76710.

It is estimated that the cost for an engineering analysis of your home for the purpose of determining how to stiffen the floor, exclusive of travel time, will be in the range of $100 to $500.

A qualified structural engineer would be able to develop an approach to stiffening the floors. However, we can suggest a method which may or may not be the most economical. If you use this method, you must place piers beneath joists at 8' on center around the perimeter of the home. Piers should also be placed beneath the joist on each side of door openings and beneath ridge beam support posts in the center of the home. The locations of the ridge beam support posts are shown on the enclosed drawing.

In addition, you can expect the cost of the repairs recommended by the engineer to cost between $100 and $500. You will have to pay the costs of consulting the engineer and performing the actual repairs. Fleetwood Enterprises, Inc. and Fleetwood Homes of Texas, Inc. will not pay them.

This notice does not limit your rights under any contract or other applicable law. You may have further rights under contract or other applicable law.

You may submit a complaint to the Department of Housing and Urban Development, G. Robert Fuller, Chief, Compliance Branch, Manufactured Housing and Construction Standards Division, 451 7th St., SW, Washington, D.C. if you believe that this notification or remedy described herein is inadequate.

Senator Bryan. Thank you.

Now a question for Ms. Bowman and Mr. Reville.

One of the concerns that you all raised is the elimination of the permanent chassis requirement.

Now, as I understand it, that is a device which separates manufactured housing from modular housing, that manufactured housing is subject to the preemptive Federal code dating back I guess to the 1974 law. But, that modular housing essentially is left up to the individual States, some 36 of whom who have adopted modular housing standards that are of various degrees of stringency.

The elimination of the chassis, which is the argument that I hear you making, would, in effect eliminate the distinction between modular and manufactured housing.

On the other hand, the mobile home manufacturers, I am sure, are going to testify that this may be an obsolete requirement, that, indeed, most of these manufactured homes today are not, you know, carted around the country, that they are sited in permanent or semi-permanent facilities.

And my question to you is how, if the Congress is willing to look at that permanent chassis requirement and say, well, maybe we are willing to eliminate it, but we sure don't want to preempt the State Modular Housing Code, what suggestion would you have to make to us to preserve that distinction, which has a historical basis and which, frankly, a lot of us are reluctant to wipe out the laws in 36 States?

Ms. Bowman, let me give you the first shot.

Ms. Bowman. I'm going to let Mr. Reville answer because Arkansas is not one of those States that regulates modular.

Senator Bryan. Was my question clear to you, sir?

Mr. Reville. I believe so, Mr. Chairman.

There are 15 States that would immediately void their laws or preempt their modular programs. There are approximately another 15 States that would as a result of that have definitional problems in the statute, as well as a problem created for the States.

The question, an overriding question, is:

Does Congress understand what they are doing in the sense of——

Senator Bryan. I don't think that there is any presumption in favor of us, generally.

Mr. Reville. Are they knowledgeable regarding the two industries in the sense that we have two competing industries, or relatively competitive industries, and they build similar but not the same product?

And I think, if Congress is going to become involved in this, they should hold a hearing or hearings, become acquainted with the two differences, or the different products. And then, based upon this information, proceed forward.

Senator Bryan. Congressman Hiler has joined us. I would ask you to stay here, but I know that the Congressman has a busy schedule and I would like those of you who are regulating at the State level to be giving some thought to the fact that if, indeed, an argument can be made, that the permanent chassis requirement insofar as manufactured housing no longer is relevant.

If you make that assumption for purposes of the argument how do we make a distinction between modular and manufacturing?

In other words, if we eliminate the permanent chassis, we, in effect, throw the baby out with the bath, the baby being the modular housing industry. And I think that there is some reluctance, at least on the part of many of us, Mr. Reville, to say:

Look, if that industry ought to be swept into the same standard, yet, on the other hand, there may be some evidence which the Congress might want to consider as to whether the permanent chassis as it relates to manufactured homes, as to manufactured homes only, whether or not that is one that has continuing viability.

And, in asking the question, I don't want to give you the impression that I have prejudged that, but I can see a distinction.

Congressman Hiler, we are delighted to have you here and we appreciate your coming on over. We know you have a very busy schedule.

And, please, at your pleasure, why don't we bring you right on up here, sir?

Congressman Hiler is the author of some of the amendments that we have talked about this morning. He represents the 3rd Congressional District in Indiana, if the information we have been provided is accurate.

We would be delighted to hear from you.

Representative **Hiler**. Thank you very much.

STATEMENT OF JOHN HILER, MEMBER, U.S. HOUSE OF REPRESENTATIVES FROM THE STATE OF INDIANA, THIRD DISTRICT

Representative **Hiler**. I appreciate your holding the hearings and allowing me the opportunity to spend a few minutes with you and maybe give you the views of the author of the amendments, as to what they do and, maybe more importantly, what they don't do.

Some 16 years ago, Congress, I think, saw a manufactured housing potential by harnessing the efficiencies, control and uniformity of factory construction while still employing the same components used in on-site construction. Manufactured housing could become a well-spring of quality homes for Americans seeking affordable shelter that they could own.

I think the promise of manufactured homes as a source of affordable housing is tremendous. The cost of the structure of a manufactured home averages about $25,000, while the cost of a site-built structure is closer to $100,000. As this suggests, the overwhelming majority of site-built homes are not designed for home buyers of modest means. Only about 20 percent of American families can qualify for the average-priced site-built home unless they already own a home with substantial equity.

About 12.5 million Americans live in 6.7 million manufactured homes in our Nation's housing stock, and I think many more Americans, particularly young adults, need access to the kind of housing that can help them catch the receding dream of homeownership. The archaic perception of manufactured homes as vehicles which is firmly embedded in current law remains an obstacle to the greater use of factory-built housing.

I think the compelling reason for revising this act is to correct the incongruities between the legitimate housing built by manufactured home producers today and the expediency of treating them like vehicles in years gone past. By modernizing the act, Congress can present HUD with a legislative view that encourages the agency to regulate and promote manufactured homes as a valuable housing resource for America's consumers.

While the amendment encourages HUD to review its building code and enforcement scheme with an eye on increasing our Nation's supply of affordable housing, I think our proposal also recognizes that such a laudable goal is empty if the homes are not well built and consumers are dissatisfied with the product. Today's manufactured home builders are dedicated to constructing an exceptional, dependable product, and the package sets up a rigorous home inspection program to lay any doubts to rest.

As with any other type of housing built by human hands, and despite the stringent inspection program that H.R. 1180 seeks to codify, problems do crop up after a manufactured home leaves the factory. While the manufactured home builder makes every effort to catch and correct these problems at the home site or retail center, even these final efforts sometimes regrettably fail.

Therefore, the House proposal requires each and every manufactured housing builder to offer its buyers a 2-year warranty in writing on every home it produces. This is the first and only national mandatory warranty requirement for housing built in our Nation, and H.R. 1180 spells out that this extraordinary mandate does not in any way affect the consumer protections offered through tougher warranty laws that might be enacted by the individual States.

I think this is an important point. Some had been concerned that the warranty is not specified as to what type of warranty it should be, or what should be included or not included—or can there be a differential between the second year and the first year? But the fact is that the warranty requirement does not exist today. This is new. We are putting in place a national 2-year warranty scheme which, I might add, not all the manufacturers are not terribly excited about. But for the first time we would have a national warranty setup, and any State which chose to have a tougher warranty could have it.

So we are in no way preempting States with the exception of those States—and there are a large number of States today—that have no mandatory warranty provision.

I think the desire to ensure the absolute safety of these homes recommends another mandate that is unique to the manufactured home enterprise.

Unlike requirements governing site-built homes, the package directs—my amendments direct—manufactured home builders to correct any safety hazard for the life of the home. Such serious problems are rare, yet even the rarest occurrences demand swift and certain action, no if's, and's, or but's about it.

Senator, a stubborn misconception I think continues to circulate in the House and—from my understanding and being here a little bit this morning I think it is here as well—and with your indulgence I would like to set the record straight. The misconception is this:

That the amendments in some way blur or erase the distinction between "manufactured homes" and "modular homes." First, the proposal, my amendments, in no way change the current law, the law that has been in force for 16 years. Title VI, section 604(h), says and has said that "The Secretary shall exclude from the coverage of this title any structure which the manufacturer certifies in a form prescribed by the Secretary to be designed and manufactured to comply" and I am paraphrasing a little bit here: "designed and manufactured to comply with the State or local modular building code."

My amendments do not change that section in any way. So that continues to exist. The confusion seems to hover around whether a factory-built home has or does not have a permanent chassis. While modular homes and manufactured homes are both constructed in a factory setting, modular homes are built to individual State housing codes; and manufactured homes are built to HUD's preemptive Federal code for manufactured homes.

Whether or not a home has a permanent chassis is irrelevant. The distinction is whether the builder chooses to follow the State code and enforcement requirements, or whether he or she follows HUD's code and enforcement scheme. The builder must choose between them before building the home. A home cannot be built to both.

H.R. 1180 maintains this distinction. I might add that for 10 years chassis were removable. It has only been in the last couple of years that HUD has, through an interpretative ruling, determined that they would not be removable. So literally from 1976 to 1986, chassis were being removed according to, or in allowance with, HUD's acceptance, and that did not blur the distinction between a "manufactured home" and a "modular home."

I might also add, Mr. Chairman, that the changes adopted by the House Banking Committee have not been produced in a vacuum. Rather, they are the result of 16 years of experience with the 1976 law, and over 2 years of drafting, discussions, and negotiations in an effort to craft good, honest housing legislation.

About 9 months ago the new HUD Secretary initiated discussions to help add certainty and reason to the manufactured home regulatory scheme, the two elements that had been sorely missed during the 1980's. And while productive, those talks highlighted the need to seek a permanent statutory change to this time-worn law.

Drawing on the ideas and concerns expressed by HUD and, yes, by manufactured home builders, the first amendments were put to paper in early March. Four revisions followed, the last of which was adopted by the House Subcommittee on Housing and Community Development by a vote of 24 to 20 on May 9. Our work to create good legislation and to alleviate the concerns and anxieties of some of my fellow committee members did not stop there, however.

Serious, detailed and sincere negotiations between HUD and with Mr. Gonzalez, Chairman of the Banking Committee, began immediately after the subcommittee vote. And hearings, much the same as yours, Mr. Chairman, were held on May 24. The hearings and our ongoing negotiations produced over 50 changes to the subcommittee amendments and, thanks to the good will and efforts of

HUD, Chairman Gonzalez, and ranking member Mr. Wylie, we were able to reach an agreement.

These amendments were adopted on June 12 in a leadership package that the House Banking Committee approved unanimously. So after we had gone through the work of subcommittee markup, hearings, further negotiations, full committee markup, the Hiler Amendments with their changes were adopted unanimously in the Banking Committee—not by a split vote, not by a fractured vote, but by a unanimous vote.

So let me reiterate in conclusion that the committee's manufactured housing provisions address to a large extent our Nation's need for affordable housing by changing the approach and tone of the law so that HUD in turn can better structure its manufactured home building code to meet the realities of 1990, rather than the conditions and perceptions that guided Congress in 1974.

By modernizing the act, Congress can help fulfill the original promise of manufactured housing, a good home at a good price for America's consumers.

Mr. Chairman, I would be happy to address any questions that you might have.

[The complete prepared statement of Congressman John Hiler follows:]

STATEMENT OF CONGRESSMAN JOHN HILER
Subcommittee on Housing and Urban Affairs
Manufactured Housing Hearings
July 26, 1990

Mr. Chairman, thank you for holding hearings today on the manufactured housing industry in general and, in part, on the changes to the law adopted, unanimously, by the full House Banking Committee on June 12th. I appreciate the courtesy you have extended to me and I applaud your interest in manufactured housing.

Some 16 years ago, Congress saw in manufactured housing a great potential: By harnessing the efficiencies, control, and uniformity of factory construction, while still employing the same components used in on-site construction, manufactured housing could become the wellspring of quality homes for Americans seeking affordable shelter they could own.

The promise of manufactured homes as a premier source of affordable housing is tremendous. The cost of the structure of a manufactured home averages about $25,000 while the cost of a site-built structure is closer to $100,000. As this suggests, the overwhelming majority of site-built homes are not designed for homebuyers of modest means: Only about 20 percent of American families can qualify for the average-priced site-built home unless they already are home owners with substantial equity.

While some 12.5 million Americans live in the 6.7 million manufactured homes in our nation's housing stock, many more Americans, especially young adults, need access to the kind of housing that can help them catch the receding dream of home ownership. The archaic perception of manufactured homes as vehicles -- firmly embedded in current law — remains an obstacle to the greater use of factory-built housing.

The compelling reason for revising this act is to correct the incongruities between the legitimate housing built by manufactured home producers today and the expediency of treating them like vehicles in years gone past. By modernizing the act, Congress can present HUD with a legislative view that encourages the agency to regulate and promote manufactured homes as a valuable housing resource for America's consumers.

While the amendment encourages HUD to review its building code and enforcement scheme with an eye on increasing our nation's supply of affordable housing, our proposal also recognizes that such a laudable goal is empty if the homes are not well built and consumers are dissatisfied with the product. Today's manufactured home builders are dedicated to constructing an exceptional, dependable product — and the package sets up a rigorous home inspection program to lay any doubts to rest.

As with any other type of housing built by human hands and despite the stringent inspection program that H.R. 1180 seeks to codify, problems do crop up after a manufactured home leaves the factory. While the manufactured home builder makes every effort to catch and correct these problems at the home site or retail center, even these final efforts sometimes, regrettably, fail.

Therefore the House proposal requires each and every manufactured housing builder to offer its buyers a two-year warranty, in writing, on every home it produces. This is the first and only national mandatory warranty requirement for housing built in our nation. And H.R. 1180 spells out that this extraordinary mandate does not in any way affect the consumer protections offered through tougher warranty laws enacted by individual states.

The desire to ensure the absolute safety of these homes recommends another mandate that is unique to the manufactured home enterprise. Unlike requirements governing site-built homes, the package directs manufactured home builders to correct any safety hazard for the life of the home. Such serious problems are rare, yet even the rarest occurrences demand swift and certain action — no if's, and's or but's about it.

Senator, a stubborn misconception continues to circulate in the House and, from my understanding, in the Senate as well, and with your indulgence, I would like to set the record straight. The misconception is this: That the amendments blur or erase the distinction between manufactured homes and modular homes.

First, the proposal in no way changes the current law — the law that has been in force for 16 years now. Title VI, section 604(h) says, and has said, that "The Secretary shall exclude from the coverage of this title any structure which the manufacturer certifies, in a form prescribed by the Secretary, to be: . . . designed and manufactured to comply . . . with a State or local modular building code." Again, the amendments do not change this provision in any way.

The confusion seems to hover around whether a factory-built home has or does not have a permanent chassis. While modular homes and manufactured homes are both constructed in a factory setting, modular homes are built to individual state housing codes and manufactured homes are built to HUD's preemptive, federal code for manufactured homes. Whether a home has a permanent chassis is irrelevant: The distinction is whether the builder chooses to follow the state code and enforcement requirements or whether he or she follows HUD's code and enforcement scheme. The builder must choose between them before building the home. A home cannot be built to both. H.R. 1180 maintains this distinction.

Mr. Chairman, the changes adopted by the House Banking Committee were not produced in a vacuum. Rather, they result from 16 years of experience with the 1974 law and over two years of drafting, discussions, and negotiations in an effort to craft good, honest housing legislation.

About nine months ago, the new HUD, under the able guidance of Secretary Kemp, initiated discussions to help add certainty and reason to the manufactured home regulatory scheme — two elements that had been sorely missed during the 1980's. While productive, those talks highlighted the need to seek a permanent, statutory change to this time worn law.

Drawing on the ideas and concerns expressed by HUD and, yes, by manufactured home builders, the first amendments were put to paper in early March. Four revisions followed, the last of which was adopted by the House Subcommittee on Housing and Community Development by a vote of 24 - 20 on May 9, 1990.

Our work to create good legislation, and to alleviate the concerns and anxieties of my fellow committee members, did not stop there, however. Serious, detailed, and sincere negotiations with HUD and with Mr. Gonzalez, Chairman of the Banking Committee, began immediately after the subcommittee vote. Hearings, much like yours, Mr. Chairman, were held on May 24th.

The hearings and our on-going negotiations produced over 50 changes to the subcommittee amendments, and thanks to the goodwill and efforts of HUD, Chairman Gonzalez, and our Ranking Member, Mr. Wylie, we were able to reach a miraculous agreement. On June 12th, those amendments, and the Hiler amendments, were included in a Leadership Package that the House Banking committee approved unanimously.

Let me reiterate, in conclusion, that the committee's manufactured housing provisions address, to a large extent, our nation's need for affordable housing by changing the approach and tone of the law so that HUD, in turn, can better structure its manufactured home building code to meet the realities of 1990, rather than the conditions and perceptions that guided Congress in 1974. By modernizing the act, Congress can help fulfill the original promise of manufactured housing: A good home at a good price for America's consumers.

Again, Mr. Chairman, thank you for your courtesy and your willingness to study and understand the rather arcane world of manufactured housing. I express to you, as I have to HUD and my colleagues on the other side, a sincere desire to discuss any line, any word in the Hiler amendments that can advance our goals. Thank you.

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Senator **Bryan** [presiding]. Congressman, we appreciate your coming over here. Just a couple of quick questions that I have, and then I know you have got to return to some proceedings over on the other side.

It is not then, I gather from your statement, your desire to preempt State law with respect to the modular housing? That is not the purpose.

Mr. **Hiler**. Correct.

Senator **Bryan**. Explain, if you will, would there be some confusion if you eliminate the permanent chassis? How does the prospective home owner know whether he is getting a modular home or a manufactured home, because there may be a different standard, as you can appreciate.

Mr. **Hiler**. Yes. There is a seal that is on the home itself. In other words, when a home is produced to the Federal preemptive standard, there is a seal, "this home is built to the Federal code." And typically for a modular home—I am not certain of this in every State—but for a modular home, I am fairly certain that there would be a seal on it saying it is built to a State code.

Senator **Bryan**. Would you agree that it is important, if indeed these amendments that you have offered become law, that there ought to be a clear distinction so that consumers ought not to be confused or misled and fully understand that, in the one instance, they may be getting a modular home but depending upon State law they may have much more stringent standards than say the National Manufactured Code that would be adopted at the Federal level.

Mr. **Hiler**. Well, whether or not we need to amplify the seal that is on the homes or not, that is certainly open to discussion. I am not sure this legislation, frankly, if my amendments were passed or not passed, I think the average home buyer going in—there is probably not going to be any change in their buying behavior.

I mean, today there are modular homes built with kind of permanent chassis. The chassis itself I do not think has a lot of relevance to the construction of the home or which code it fits under. If we need to amplify the distinction for consumer purposes through some type of notice requirement or something, I presume that would be all right.

We have even talked about, to alleviate some concerns, whether or not in this legislation when it would get to a conference committee, if we further amplify the existing statutory difference between the two, if that would relieve concerns. So I think certainly some steps could be taken there to alleviate consumers' concerns.

Senator **Bryan**. And the last question——

Mr. **Hiler**. Certainly.

Senator **Bryan**. And then we will let you get back to the other side there. You were explaining the process by which these amendments became part of the House housing bill.

Mr. **Hiler**. Yes.

Senator **Bryan**. Take me through that, if you will, again. Because as I understood it, your original housing bill over there, like our bill on the Senate side, did not address manufactured housing.

Mr. **Hiler**. Correct. Correct.

As I think was maybe mentioned—I think I heard one of the witnesses, or maybe it was in your opening statement, or Chairman Cranston's opening statement—discussion started between HUD and others last summer about how we might go about making manufactured housing a more viable alternative in the marketplace.

I should probably tell the Chairman, I come at these amendments and this desire to do something in this area from really two vantage points. One is my interest in promoting affordable housing. I am just convinced that homeownership is a goal that as Americans we ought to try to promote. I am also convinced that manufactured housing can be an important part of the housing mix to meet affordable housing.

Along with that, and I would be less than forthright if I did not add this, the industry has an extremely important presence in my district. About 15,000 people work in the industry. We are the second or third largest producer of manufactured homes, our State is, in the country—over 35 plants. It is the fifth largest employer in the State of Indiana. So I have gotten to know the industry fairly well because of its tremendous presence in the State of Indiana.

I am convinced that the amendments we are proposing are good for the consumer and good for the buyer, and that only by promoting amendments that are good for the ultimate consumer and buyer will the industry be helped in any way. So I am not coming at this from trying to help the industry, I am coming at it from trying to help the consumer, and I believe if the consumer is helped the industry will be helped, as well.

So when we started these negotiations with HUD nearly a year ago now, that was where we were coming from. Unfortunately, in the winter the general counsel at HUD made a determination that the type of discussions that were taking place could not take place between HUD and the industry; that they were akin to rulemaking or something and they just thought that they were not proper.

So at that point, negotiations or discussions stopped. We took the proceeds from what had happened up until that time, with all the various questions that had come up and the possible resolutions, and then began crafting the amendments. We went through a variety of steps to come up with amendments that could be supported. We then offered it as an amendment package to H.R. 1180 in subcommittee.

Senator **Bryan**. Now were there hearings prior to that?

Mr. **Hiler**. Not hearings prior.

After about three hours of debate, the amendments were adopted by a vote of 24 to 20.

Senator **Bryan**. Now that is in your subcommittee, as I understand it?

Mr. **Hiler**. That is in the subcommittee, yes. And the chairman of the subcommittee is Chairman Gonzalez, chairman of the full committee. He had had, to say the least, he had had many concerns about my package of amendments. He thought it would be good, as did I and many others, to have some hearings before we got to full committee markup. So hearings were scheduled before the full committee markup.

At the same time, I pledged to the chairman and to others on the committee that I would work to correct any misperceptions that people had about the amendments, whether they were technical drafting errors, or where all of us agreed to what we wanted to do but there was just a difference in whether we thought the amendments were really doing that or not. We took care of all those.

Then we had about a half-dozen issues that remained where there were genuine differences of opinion as to what the goal ought to be. It was at that point that the chairman and his people, and myself, and Chalmers Wylie and others through our staffs over a period of about 2 weeks, compromised those down with all of this giving a little bit here and there.

Senator **Bryan**. Sure.

Mr. **Hiler**. And we finally came up with the leadership amendment that was offered that was passed unanimously, and that the chairman of the committee, Henry Gonzalez, who had opposed my amendments in subcommittee, endorsed as the leadership amendment in full committee. So it was discussions with HUD and others, markup, hearing, markup.

So when we finally got to the final resolution of the Hiler Amendments, it was after about a 10-hour hearing in which we had about four or five different panels with many of the witnesses here today as well as witnesses from the industry, some individual manufactured home owners, heard from folks from fire protection, and other people, and it was after that that we then came up with the final batch of amendments.

Senator **Bryan**. I appreciate that. One last question, and then we will let you get back.

Mr. **Hiler**. Certainly.

Senator **Bryan**. You mentioned the standpoint of your concern and interest on behalf of consumers, and all of us share that.

Mr. **Hiler**. Yes.

Senator **Bryan**. I think that all of us would agree that affordable housing is a goal that ought to be a part of our national policy. And I think most, if not all, of us—I certainly share your view that manufactured housing and modular housing play important roles in achieving that. I think one thing it may very well have gotten some folks that are concerned about the consumer perspective a little bit concerned is the fact that, as you know, the Secretary today in establishing standards at the HUD level is obligated to consult with the Consumer Products Safety Commission. That is an agency that at least by purpose is designed to protect the public, and has a consumer focus on it.

Mr. **Hiler**. Yes.

Senator **Bryan**. Share with us what your thinking was in eliminating the Consumer Product Safety Commission from that discussion role.

Mr. **Hiler**. It was put back in.

Senator **Bryan**. It was put back in?

Mr. **Hiler**. Yes. And it is in the final, it is in H.R. 1180, that came out. Our thinking behind it, frankly——

Senator **Bryan**. Was that part of the leadership package?

Mr. **Hiler**. That was part of the leadership amendment.

Senator **Bryan**. I stand corrected.

Mr. **Hiler**. Our thinking there was, we did not in any way inhibit the Secretary from having discussions with the Consumer Product Safety Commission or anyone else that he or she might want to. What we said, we just deleted it frankly. There was not a lot of evidence that the Secretary of HUD in any of the—in essence, going back to 1976 when the first amendments were put into law—that there was that type of consultation, but there was not a lot of evidence that much consultation had taken place since then. So we perceived that as a cleaning up of the statute.

But when the chairman raised some concerns, because in no way did our amendment preclude them doing it anyway, we said, "OK, go ahead and continue to consult. I do not think much consulting has been done anyway, but if you want to continue to go ahead and have it in the legislation, that is fine with me."

Part of what we were trying to do with these amendments was to clean out some of the dead wood in the legislation that was at first drafted when we were trying to come up with a Federal standard. Now that we have had one for 16 years, it is a little bit of a different focus than when you did not have one in the way you were going about constructing one. Some of the dead wood we stripped out, and some other parts that we thought was dead wood others did not, so we put it back in.

Senator **Bryan**. Great. Well, Congressman, we thank you very much. I am sure we will have a chance to visit further as this legislation——

Mr. **Hiler**. I am sure we will.

Senator **Bryan** [continuing]. Wends its way through the process.

Mr. **Hiler**. Well thank you, Senator, for your graciousness in allowing me to be here and for having these hearings. We really appreciate it. Thank you.

Senator **Bryan**. Thank you, very much.

Let us return—one of the things the Congressman just mentioned was the warranty provision. As he indicated, there is currently no warranty required by Federal law. There are some warranties required by State law on an individual basis. One of the things that I note on the warranty provision, however, is that the Secretary is expressly prohibited from setting standards for that warranty.

Mr. Wehrman, I think you are the one that mentioned the warranty issue. Share with me your perspective on that.

Mr. **Wehrman**. Let me say, first of all, thank you very much for the question.

A good businessperson—and we have a lot of good manufacturers—first of all already issues on a voluntary basis, as a good business practice, a warranty. Some of those run 1 year. Some run 2 years. We have not found that in those instances where these warranties have had any serious ramifications. Many of those warranties are buried in State law. Again, some States have 1 year laws, and some have 2 year laws. Many of those that are in State laws spell out very specifically what those requirements are.

Most of them are full, express written warranty covering a whole host of things, generally enforceable by State programs. We also have the hammer for those industries that do not want to comply.

There are licensing procedures. There are administrative procedures, and ultimately the removal of those licenses should there be nonconformance.

The problem I have with the Federal law is that it is only a document. It is a piece of paper that is unspecified what it should include, other than the fact that there shall be a 2-year warranty issued by the manufacturer. There is no enforcement technique whatsoever.

The serious problem that Mr. Hiler did not mention is the apparent conflict that there may be between the Federal law and the State law. For example, if a consumer has a complaint and he gets hold of a manufacturer, the manufacturer will say, refer to my warranty. And he can say, well, the State law says thus and so, or my State administrator says thus and so. And you say, well, the warranty in this instance prevailed. So now we will have another running argument between whether the Federal law prevails or whether the State warranty prevails, or what the Federal or the State program is.

We also believe that——

Senator **Bryan**. You see a potential confusion factor.

Mr. **Wehrman**. Very much of a confusion factor that we in a sense may have three types of warranties—one issued by the manufacturer, one with a State requirement, and now we are going to put perhaps another layer on there with a Federal law.

We also think that this is going to tie the hands of those people who are the SAA's, the State administrative agencies, in that if a consumer would complain on an individual type complaint the SAA is liable to say, well, you have a 2-year warranty, let us go through the warranty provision first and see if we can get compliance through that.

Our other most serious problem with this is, if you have a manufacturer's warranty, unlike as we have had in the past, many manufacturers plants today are located hundreds of miles away from the consumer's site, anywhere from 100 to 500 to 600 miles, and the consumer has a warranty problem and he calls the manufacturer for a redress of that warranty, our experience has been—and it is liable to be even more so in this instance—it is months and months before that consumer's particular kinds of issues are satisfied.

Most of the manufacturers have only very limited crews. They travel all over a very large geographical area, and it is very difficult for them to service a single home owner that is hundreds of miles away.

Senator **Bryan**. Mr. Wehrman, you may have mentioned it and I was distracted momentarily, and if you did I apologize, but I presume if the Secretary is prohibited from adopting standards, the warranty could be very limited. The warranty could be limited only to the countertop, the hanging of the doors, the carpeting, the fixtures——

Mr. **Wehrman**. Yes. There are no provisions——

Senator **Bryan**. I mean am I correct in that?

Mr. **Wehrman**. Yes. There are two techniques in there. First of all, it does not spell out any of the requirements to be included in this, whether it is a very, very limited warranty—a State law has 1 year, whether a State can have provisions for 1 year, and a totally other provision for the second year. It is totally absent.

The more serious problem with this is that there is no enforcement technique to it whatsoever. It turns out to be nothing more than a piece of paper, a document. The only way that you technically can enforce that Federal warranty is to take it into Federal court.

Senator Bryan. What if you were writing the law and were looking at this from the standpoint of the mobile home owner, what would you ask the Congress to do? What changes would you make?

Mr. Wehrman. That is difficult to answer, because I really think when it comes right down to it that this is a State problem that we have to deal with. One of the functions within our National Foundation and all the State associations is to encourage the State legislatures and the State agencies to set up warranty type programs through their legislature.

I frankly would like to have a Federal warranty. I would like to have all the consumer protection we can get. I just do not think that a 2-year warranty, federally mandated, as Mr. Hiler has already indicated—if a manufacturer already produces a document, and another manufacturer does not, business sense tells me that the guy who does not currently issue a warranty is going to be very reluctant to perform to those standards unless he is absolutely held accountable to perform under that.

Right now under the Federal law he is not held accountable for anything unless we want to file an action in Federal court.

Senator Bryan. Mr. Wehrman, let me give you and other members of the panel an opportunity to submit to us your thoughts on this. I realize that we do not have time to explore all of these aspects.

[Additional comments supplied for the record follow:]

Mr. Reville. Senator Bryan challenged the members of the panel on which I spoke to apply thought and provide written comment on consumer complaints that should be addressed in Federal legislation.

As Mr. Wehrman indicated in his oral comments, this is a difficult question. In my opinion the resolution process must remain at the lowest possible adjudicative level, which means administrative action by the States. There are many States, including my own, that have departments and procedures currently in place that respond to consumer concerns. In other States, it would require the establishment of an adjudicating body within some arm of Government. The Federal statutes must provide the base with clear and distinct direction, and permit the States to enact stronger legislation. A State should have the option of pursuing a manufacturer, either in State court or Federal court, for any violation established in this law. I believe this provides the mix of Federal direction with active State participation, which would allow the consumer redress in the least expensive and the most expedient method.

Senator Bryan. Ms. Bowman, did you have a comment that you wanted to make?

Ms. Bowman. Yes. I would just like to mention briefly my concern about the 2-year warranty.

Arkansas has high humidity, as many other States, and many moisture problems do not really become obvious to the consumer within that 2-year period. Recently we have received complaints on two homes that 5 years later, obviously they started noticing it a little bit before then, but the hardboard siding had deteriorated to a point that basically it had to be totally removed.

So I am concerned about homes in the States that do have high humidity, that do have moisture problems, what will happen to those homes if they are not noticed within that 2-year period, even though the deterioration may have started within the 2 years, but then it becomes a debate of is that acceptable or not.

Ms. **Meier**. May I just make a brief comment, too?

Senator **Bryan**. Certainly.

Ms. **Meier**. Over on the House side, since there has been some discussion of how things went over there, the warranty provision was raised as this great new thing for consumers. Our view of it is that essentially the warranty was an illusory benefit that was pretty much a ruse to camouflage the fact that we were undermining the notification provisions in the law.

So I would be happy to talk about how we can improve the House language on warranty, and I think our panelists have described how far short it falls in really protecting consumers and how we could remedy that. But I would not want it to be improved at the expense of maintaining this weakening in the notification provisions.

Senator **Bryan**. You view that, then, as a very critical flaw in the House legislation?

Ms. **Meier**. Right. And current law protects consumers in ways that a warranty, even if it were truly a beneficial warranty provision, cannot.

Senator **Bryan**. Well, it casts the burden upon the manufacturer to notify.

Ms. **Meier**. Right. You have to go into court with all the legal expenses involved, and plus it is only dealing with an individual consumer. It only helps an individual consumer, at best. Whereas, the notification provisions reach out to all consumers who have defective homes.

Senator **Bryan**. Could someone, and I will leave it up to you, tell me a little bit about the inspection procedures in factories? It has been argued over the years that the quality of manufactured housing has greatly improved, and I am sure that that is true—from at least my own perspective, and I claim no expertise in the area—how does the inspection process in the plant, in the manufacturing facility for example, compare with the kind of inspection that you get with an on-site construction, not referring now to modular, but the stick-built home that a lot of us are familiar with. Can anybody respond to that at all as to how the inspections are done in the plants versus how you do the inspection if you are building something with the poured pad, during the framing, the plumbing, and all that sort of thing?

Mr. Reville, maybe you have had some experience in that.

Mr. **Reville**. Mr. Chairman, within our program every home being produced will be looked at at one stage of construction.

Senator **Bryan**. We are talking now about manufactured homes?

Mr. **Reville**. Manufactured homes, that is correct. Which means that if a manufacturer has a limited production, we could be in there on a Monday and look at the time in shall we say a frame—that is what the home consisted of at that time. Because of his limited production at that time, we may not be back in until the following week. That home would have been finished in construction and shipped to the consumer. So we would have seen it once, and it would not really have been what we considered a "home" at that time; it would have been a frame being prepared to have a home sited on it.

Senator **Bryan**. Does that meet the present standards?

Mr. **Reville**. That meets the mandate. In other words——

Senator **Bryan**. One inspection.

Mr. **Reville**. One inspection.

In some facilities where production is a little more advanced, where they are producing more homes, we may see that home again in the frame section, and we may see it in finished section, again with everything concealed. In other facilities where we go in more often we may see it three or four different times. We will look at every home in production whenever we are in that plant, but our visitations to those plants are based upon production within a plant. So a lower producing plant, our visitations are reduced; our higher production plant, more often.

Senator **Bryan**. Well that is different, as I understand it, philosophically from the type of inspection that you get with an on-site construction.

Mr. **Reville**. Yes. Obviously where you have the different functions in construction—plumbing, electrical, and so on—where you would have the local building official come out and inspect each one of those stages of construction as it is completed, yes, it is a much different process.

Senator **Bryan**. And tell me who does the inspections in the plants? How does that work?

Mr. **Reville**. That is a situation where, in the State of Arizona, the State of Arizona assumes that responsibility and we are referred to as an IPIA, "In-Plant Inspection Agency." Other States choose not to assume their responsibility and they contract that function out within the private sector.

Senator **Bryan**. Can you describe that a little bit more in detail when you say "they"? The State contracts it out?

Mr. **Reville**. The State would hire a private firm to perform inspections on their behalf. Reports of those inspections then would be given to that State agency for their review and their oversight. Again, many States choose to do it themselves. Others choose to have others do it for them, depending upon how they view the situation.

[Additional comments supplied for the record follow:]

Mr. **Reville**. I would like to amend my answers as they relate to line 7, in which I indicated that States contract with the private sector to perform in-plant inspection. To correct this statement I should have responded "if a State wishes not be an IPIA, the manufacturer is free to select who they might wish to perform the inspections from a list of approved inspection agencies provided by HUD."

In line 12 I again repeat that the States would hire a private firm to perform inspections on their behalf and, as stated earlier, the manufacturer would be the contracting party not the States.

Senator **Bryan**. Any other types of inspections that are used in the mobile home—it looks like Mr. Freeland is about ready to make a comment?

Mr. **Freeland**. I can only reiterate what Mr. Reville has stated. In my understanding—of course it depends on jurisdiction, and some States do it a lot better than others with regard to local inspection for an on-site built home. But in general my understanding is that it gets inspected a number of times during that process, whereas, a manufactured home may not always, but very often be seen once, or may be inspected once.

Senator **Bryan**. Well I have been told, and I must confess that I have never been to a plant, but I have been told that there is also a system in which the individual manufacturer itself may engage the firm that is doing its inspection. Do I misapprehend that? Somebody correct me if I am wrong.

Ms. **Meier**. No. That is correct. And in fact in a number of States you do not have the State involved at all. You have private agencies that are in essence under a contractual relationship with HUD, not State government, and in those States—i.e., in any State where the State is not the exclusive inspection agency, the manufacturer pays money for the inspection to the inspection company and is free to choose among inspection companies at will.

We believe that creates a real bad conflict of interest, in that the inspector knows that it could lose business if it is a tough inspector and a good regulator and has an incentive to go easy in the interest of maintaining that manufacturer as its client.

Senator **Bryan**. As I recall there was a provision, and I am not sure if it was the original Hiler amendments that were taken out by the leadership package as he described it, but there was a prohibition that limited HUD in conducting its inspection, or of those who conduct the inspection, to once a year. Are you familiar with that provision, or did it survive? Am I clear in my question? HUD has an oversight responsibility, as I understand it, to make sure that those who are doing the inspection are performing their job, generally, but there was a provision at one time in the bill and the staff—if I have misspoken, staff will correct me—but there was a limitation that said, look, HUD can only check that out once a year. I was wondering what the rationale for that was.

Ms. **Meier**. I will check this.

Senator **Bryan**. If you would check it, I may be in error on that.

Ms. **Meier**. It initially limited HUD to doing inspections of the inspection agencies on an annual bases, and I am not sure if that survived. I know there is now a requirement that HUD annually review the inspection agencies and if they are doing an okay job, HUD is required to renew their contract, which is strange.

Senator **Bryan**. My concern was that at one point—it was related to me that indeed, although they may only be required to do that once a year, they could do it more frequently. The thrust of this would be to prohibit—I see it—"The Secretary may audit, inspect, or investigate the primary inspection agencies on an annual basis." I guess the inference is that that can only be done once. Is that the fact?

Ms. **Meier**. I would need to check it again.

Senator **Bryan**. You have all been extremely helpful, and I thank you very much.

Mr. Wehrman, I will give you one last chance.

Mr. **Wehrman**. I need to comment as a home owner representative on this notion of the permanent chassis, and I will give you some written commentary to this.

Mr. Chairman, if it was only the removal of the permanent chassis, I do not think that many of us at this table would have a very big discussion with it. The problems starts in the factories and what happens to it. Does it now go to a retailer? Does it go to a retailer's lot with an integrated foundation system? How does it get transported? How does it get sited on the mobile home dealer's lot and, more important, what happens when it gets sited? Does it have to go on a perimeter type foundation like a conventional house? Or can it go on a pier system?

We think that these homes can only go on private lots owned by the home owner, and if you put it on permanent foundations, i.e., like in rental type mobile home parks, we are going to get into very serious real estate problems whereby we are now attaching an individual home to someone else's rented land. We will get into all kinds of confrontations with local governments.

In addition to this, what we have opened up, we have opened up Pandora's Box to get real estate brokers—and maybe fortunately, real estate brokers into this business, because they now have the availability of getting this home that they can now put on a permanent foundation and site like a conventional house. So this is much, much more complicated than just a matter of a chassis.

That was one of the reasons for suggesting the withdrawal of this, legislation to take it back, and to review it many, many more times because what Hiler says is one thing, but what is not said in the Hiler amendment is frankly more important than what is said.

Thank you, very much.

Senator BRYAN. There was one other question here I noted that I had, and that deals with the question of fees. I presume that we are talking about the inspection fees that are collected from the manufacturer, and the use to which those fees could be put. It seems to me there was some controversy in the House hearing as to the limitation of that.

Does somebody want to comment on that and share your view on that, if you have a view at all?

Ms. MEIER. We have concerns regarding what the House bill does on the fee question.

Senator BRYAN. Tell us what it does.

Ms. MEIER. One of the problems is the fact that there are two sections in the law as amended by the House bill that contradict each other. I do not know if there is just a technical problem, but it does create——

Senator BRYAN. It could be the Lawyers' Full Employment Act. [Laughter.]

Ms. MEIER. Exactly. Reading it in its worst light, what it does is require HUD, any time that it wants to use the fee money for research or testing, to go through a notice and comment rulemaking which we believe is an unnecessary hurdle and an administrative roadblock that will create a disincentive for HUD to ever use the fee monies for this purpose. Fee money could not be used for some testing or for training.

In a more favorable light, if we resolve the contradictions more favorably from our perspective, it would continue to allow use of fee money for research, testing and training. But HUD, for research purposes, would have to go through a notice and comment rulemaking.

Generally, research for example to determine whether standards need to be updated, or whether or not the standards are even being complied with is very important in this area to ensure a durable product.

Senator BRYAN. Does current law permit that?

Ms. MEIER. HUD is doing research with the fee money at the present time. For example, HUD is currently doing some research under contract with a third party on the question of condensation in the walls of the home with a view toward the fact that perhaps the standards will need to be revised because they allow too much condensation, which then contributes to rotting and rapid deterioration of the home.

So that is an example of why research is necessary and important to assure that the standards are good and that the inspections can pick up whether or not the standards, if they are performance standards, are being met.

Senator BRYAN. What limitations on the use of the fee money for research survived in this evolving process that the Congressman explained in the initial amendments to the leadership package? I am not sure which provision survived, and maybe none of them did.

Ms. MEIER. Under section 608, which is one of the sections dealing with research and fees together, HUD is allowed to use the fee money for research testing and training. But research is only allowed to be one of the uses of the fee money if HUD goes through a notice and comment rulemaking.

Senator BRYAN. Is that different from the present law that requires notice of hearing and rulemaking?

Ms. MEIER. The notice and comment under the present law. Under section 620 as amended by the House law, HUD can only use the fee money, and it refers back to section 608, for research if it goes through notice and comment rulemaking under section 620 fee money can be used for a limited amount of testing to determine whether or not new standards need to be developed. If the testing is being done just to ensure compliance with current standards, the fee money cannot be used for those purposes. And section 620 does not allow use of fee money for training.

So either way you read the law, whether it is going to be section 608 that prevails or section 620, we have got new hurdles and limitations on the use of fee money.

We thank you very much. You have been very helpful to the subcommittee. I think we have built a record that reflects the concerns that you have raised.

And, Mr. Freeland, one last comment.

Mr. FREELAND. With regard to the permanent chassis, being mindful of what the industry representatives may claim in that respect, I mentioned earlier that I live in a mobile home park in earthquake country.

Incidentally, it happens to be a resident-owned mobile park. And I can tell you stories about what happened.

In expressing our concern as to whether or not there is a permanent chassis under the unit as to how well it would withstand a shock of that kind, there sure should be some restrictions, some requirements with regard to transportation and installation.

Now, what part the permanent chassis plays in that I think is a very important part. It is an essential requirement. It's got to be transported properly. It's got to be installed properly, or the consequences may be disastrous in the future.

Senator **Bryan**. You are saying in terms of the durability of the product, both in the transportation phase as well as the siting phase, that the permanent chassis may have an important role in terms of providing more rigidity, or more stability, I guess, to the product.

Mr. **Freeland**. It sure does. And I would suggest that, if there is not going to be a permanent chassis, there certainly should be some provision to guaranty, ascertain that the unit, the home will withstand the stresses of transportation and will stand up on whatever installation is provided for it permanently.

Those restrictions should be clearly stated and enforced.

Senator **Bryan**. Mr. Freeland, I appreciate that very much.

And thank you all again. We very much appreciate your testimony this morning.

Our next panel will consist of Mr. Jerry Connors. Mr. Connors is the president of the National Manufactured Housing Institute.

Mr. Gub Mix, executive director of the Nevada Manufactured Housing Association, in Las Vegas, NV;

And Mr. Edward J. Hussey, Jr., chairman of the Governmental Relations Committee, the Association for Regulatory Reform, in Washington, DC.

And although we are trying to limit everybody to 5 minutes, we certainly have been flexible with the other panel, so as long as you don't abuse the time limits too much, we're not going to hold anybody to the technical 5-minute rule.

We have kind of gotten beyond that. And we have been requested to make our record complete by the testimony of Maureen Wagner, who is the chairman of the National Manufactured Housing Federation. And that will, indeed, be made part of the record.

Mr. Connors, unless you have a recognized order in which you all prefer, can we lead off with you?

Mr. **Connors**. Sure. Thank you, Senator **Bryan**.

STATEMENT OF JERRY C. CONNORS, PRESIDENT, NATIONAL MANUFACTURED HOUSING INSTITUTE, ARLINGTON, VA

Mr. **Connors**. My name is Jerry Connors. I am president of the National Manufactured Housing Institute, National Trade Association representing manufactured home builders and their component suppliers.

Our builder-members produce over 60 percent of the nation's manufactured homes.

I am delighted to be here today to address the subcommittee on the Manufactured Housing Construction and Safety Standards, MHCSS, Act and the amendments to that act contained in the House bill H.R. 1180. As you know, these amendments were included in the House bill during subcommittee markup by a majority vote and were further revised in the full committee and included in a package of leadership amendments supported by Chairman Gonzalez and approved unanimously.

If I may, I would request that my statement be made a part of the record, and then I can deviate?

Senator **Bryan**. It will be made a part of the record and we have given you a virtually unlimited license to comment.

Mr. **Connors**. Thank you very much.

Today's hearing, I believe, is an important step toward giving the members of the Senate Subcommittee on Housing and Urban Affairs the opportunity to better understand the purposes for these amendments.

On behalf of MHI, I would like to thank you, Senator, for your interest and willingness to chair this hearing. I hope that it will allay your own concerns as expressed during Senate debate on the Housing bill.

Mr. Chairman, I believe that these amendments are an improvement over existing law and that home buyers, regulators and the industry will all be better served if they are enacted by the Congress.

Let me begin, Mr. Chairman, by giving you and the other members present several pictures of manufactured homes so that you can see what kinds of homes we're talking about when we discuss these issues.

I'd like to submit these for the record, if I could.

Senator **Bryan**. Absolutely. Those will be made a part of the record.

I might just add, parenthetically, Mr. Connors, as Mr. Mix acknowledges in his testimony, I've had occasion to visit within the last year or so a number of different manufactured homes.

I do not profess expertise, but I have been in a number of different models. And there are some extraordinarily fine products in my view.

Mr. **Connors**. Thank you.

As the industry continues to address the financing and land use barriers that impede the availability of manufactured housing, we believe that it is now time to modernize and change the National Manufactured Housing Construction and Safety Standards Act. The act should be amended to properly reflect its role as a housing code rather than a vehicle safety standard.

I would like to reflect at this time on the statements made by Congressman Hiler with regard to the negotiations that were taking place during the summer and fall and the winter of this year, until they were cut off by HUD.

I think that, during that time, the industry and some of the people on the previous panel were able to identify some key issues and work toward some sort of consensus, a consensus that was never fully arrived at. But, it was quite unfortunate that HUD foreclosed the continuation of those negotiations.

I think we were working toward a good final product. I wanted to certainly state that the industry played no role in foreclosing those negotiations.

Since the system has been in place since 1976, HUD has rightfully addressed the safety problems, it is now time for the act's purposes to be amended. The negative em those
negotiations.

Since the system has been in place since 1976, HUD has rightfully addressed the safety problems, it is now time for the act's purposes to be amended. The negative emphasis on injuries and death must be modified to a positive emphasis on safe, durable and affordable housing.

I'd like to associate myself with the remarks of Congressman Hiler on the chassis provision that's contained in the Hiler package of amendments. I won't go over old ground, only to emphasize that Mr. Hiler is very correct when he states that there is no need to believe that there will be any confusion if that provision in the package of amendments is adopted.

There is a label. It's a code issue: All homes built to the Federal HUD Code are labeled with that label. And most modular homes have their own label also.

Unfortunately, I believe, when you look through the confusion argument, it really becomes more of a marketing and a competitive issue than anything else. The manufactured housing industry has identified a product 10 or 15 years ago that serves a segment of the community very well. And to remove the chassis from a manufactured home portends none of the dangers that Mr. Freeland alluded to at this point in time.

All of those homes, when they are designed to have the chassis removed, go through a DAPIA, design approval process, which provides for the building up of the floor of the home in order to withstand the forces once the chassis is taken away.

So it is truly not an engineering problem at this point and there are many, many houses out there in this country that have been built that way that are standing up very well.

The Hiler amendments retain full authority for HUD to set construction standards that provide for the highest standards of protection for the provision of safe, quality and affordable housing. These amendments require an annual review and updating of the standards, something that is greatly needed because HUD has not kept the standards updated to reflect technological advances and updated industry practices.

The amendments also propose to codify the existing HUD regulations that call on private sector consensus organizations to make recommendations to HUD for change to the standards.

I'd also like to take a second here to comment on the issue raised by the representative of the Consumers Union with regard to Fleetwood.

In her testimony, she alluded to the fact that there were thousands of Fleetwood homes that had gone out with a defect in them, and alluded to buckling walls and walls that wouldn't adhere to floors, et cetera.

What happened there really was an engineering dispute between HUD, its contractor, NCSBCS, and Fleetwood, going back about 7 or 8 years ago.

And the illusion that there were many problems and complaints from this particular dispute is just not true. It was an engineering dispute which eventually went to court and was settled. But there were not a lot of complaints. It arose from the DAPIA, the design approval process, as NCSBCS, the contractor for HUD, examined various design proposals.

I see that the red light is on.

Senator **Bryan**. You go ahead, Mr. Connors. We allowed everybody else to go beyond and we want to make sure that you have a fair opportunity to present your testimony, so you go right ahead.

Mr. **Connors**. Thank you.

The Hiler amendments set forth clear guidelines for how HUD should interpret standards to ensure uniform and reasonable interpretations. The amendments strengthen existing law by requiring annual review and certification of third party agencies who review designs and inspect homes.

They also authorize training of these third parties. These changes will fulfill the original intention of the act by ensuring that these third party inspectors are doing their job.

HUD will retain full authority to review the work and monitor these third parties and to inspect homes. These changes are necessary because, over the past several years, HUD through its monitoring agent has been acting in the role of third party inspector rather than its intended role of monitor.

The original act intended that HUD perform only an oversight function. The Hiler amendments merely clarify that original intent.

Mr. Chairman, it is the Consumer Protection provisions of the Hiler amendments that have caused the most confusion and controversy and, therefore, deserve clarification.

The Hiler amendments maintain existing repair requirements not found in any other building codes or laws. HUD's interpretation of existing law requires that manufactured home builders correct for the life of the home any imminent safety hazard or serious defect, which, by HUD definition, results in a threat of unreasonable risk or injury or death or severe personal injury.

The Hiler amendments combine definitions of imminent safety hazard and serious defect and clarify that the focus of a manufacturer's recall action shall be to eliminate risk of injury and death.

The Hiler amendments do eliminate existing notification requirement for a class of defects in the home. Currently, manufacturers must notify when more than one or class of homes results in a problem that renders the home unfit for the ordinary use for which it is intended.

Let me stop here for just a second and suggest that the balance that we were trying to achieve in the negotiations with HUD and the attempt in the Hiler amendments was to work on section 615 on notification and correction of defects in conjunction with the mandatory 2-year warranty to achieve for the consumer the proper balance.

We felt that, under the old law, the notification of defects was merely a paper transaction where there was no real benefit to the consumer, and a lot of paperwork for the industry and for HUD.

We felt like the focus of that program, an unwieldy in some cases Government program, should be to take care of safety defects.

Now, having removed the notification of defects, we felt like the extension of a mandatory warranty would fill that gap. I think you'll find that, on an ongoing basis, a homeowner, a consumer, will be better served by the protection of a 2-year warranty than they will be by the unwieldy process which results only in notification and not correction.

I think that that pretty well sums up the guts of my statement and I would be glad to answer any questions you have later on.

[The complete prepared statement of Jerry C. Connors follows:]

STATEMENT OF
THE MANUFACTURED HOUSING INSTITUTE
BY
JERRY C. CONNORS, PRESIDENT
BEFORE
U.S. SENATE
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS
SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS
THE HONORABLE RICHARD H. BRYAN

HEARING ON MANUFACTURED HOUSING CONSTRUCTION AND
SAFETY STANDARDS ACT OF 1974

JULY 26, 1990

MANUFACTURED HOUSING INSTITUTE
1745 JEFFERSON DAVIS HIGHWAY
SUITE 511
ARLINGTON, VA 22202
703-979-6620

INTRODUCTION

Senator Bryan, and members, my name is Jerry C. Connors. I am President of the Manufactured Housing Institute (MHI), a national trade association representing manufactured homebuilders and their component suppliers. Our builder members produce almost 60 per cent of the nation's manufactured homes.

I am delighted to be here today to address the subcommittee on the Manufactured Housing Construction and Safety Standards (MHCSS) Act and the amendments to that act contained in the House bill H.R. 1180. As you know, these amendments were included in the House bill during subcommittee mark-up by a majority vote and were further revised in the full committee and included in a package of leadership amendments supported by Chairman Gonzalez and approved unanimously.

Today's hearing, I believe, is an important step toward giving the members of the Senate Subcommittee on Housing and Urban Affairs the opportunity to better understand the purposes for these amendments. On behalf of MHI, I would like to thank you, Senator, for your interest and willingness to chair this hearing. I hope that it will allay your own concerns as expressed during Senate debate on the housing bill. Mr. Chairman, I believe that these amendments are an improvement over existing law, and that homebuyers, regulators, and the industry will all be better served if they are enacted by the Congress.

Let me begin, Mr. Chairman, by giving you and the other members present several pictures of manufactured homes so that you can see what kinds of homes we are talking about when we discuss issues related to manufactured housing and the Manufactured Housing Standards Modernization amendments. If I may, I would also like to submit these for the record.

MANUFACTURED HOME AFFORDABILITY

As you can see, these are homes, not recreational vehicles or travel trailers. Although some manufactured homes look like modular homes, they are distinguished from modular homes by their building code and enforcement program. Manufactured homes are built to the federal Manufactured Home Construction and Safety Standards administered and enforced by HUD in conjunction with the states. Modular homes are built to state or local building codes regulated by the states or by local communities. The focus of our discussion today is on manufactured housing, built to the federal HUD code.

Almost twelve million people live in manufactured homes across the nation, mostly in rural and suburban settings. About 40 per cent of all manufactured homes are located in land-lease communities and the remainder are located on private land. As you can see, the industry produces housing for a wide range of income levels, from the modest single-section homes whose average price is $21,000 to the elaborate home you can see on the cover of this brochure. This home sells for a little over $100,000 with land. At retail, manufactured homes cost less than half as much per structural square foot as site-built homes - $21.36 vs. $50.57 in 1988.

According to the National Association of Realtors, first-time home buyers today cannot afford the typical starter home. This is a fifteen-year trend that does not appear to be changing. NAR's data indicates that for the first three months of this year, the median income of first-time home buyers was $23,123. However, the typical first-time buyer would need an income of $31,655 to qualify for conventional financing for a typical starter home costing $81,500.

Manufactured housing provides a home ownership opportunity for many of these buyers who are squeezed out of the traditional housing market and forced to rent or live in subsidized housing. Owning a manufactured home is actually less expensive than renting a house or apartment. The median monthly housing costs of manufactured home owners are $294 compared to $332 for apartment renters. Monthly costs for site-built owners are $463.

CONSTRUCTION TRENDS

Average square footage living space has jumped 11 per cent since the early 1980s. In 1989, 47.9 per cent of all new manufactured homes produced were multi-section, up from 21 per cent in the early 1980s.

Construction trends are changing to meet the changing market for manufactured housing. Even at the lower price ranges, manufactured homes are becoming more houselike. Manufactured home builders are using gypsum panels for ceilings and walls in response to consumer demands and technological advances. Many manufacturers are finishing the panels in the factory to give a smooth, seamless surface without visible joints. These are examples of innovations that are taking place with lower and higher priced manufactured homes as we work toward greater acceptance as an important part of the housing market.

For example, the industry is currently participating in a research and development project with the city of Elkhart, Indiana, the state's Department of Commerce, and Ball State University's School of Architecture to examine quality manufactured housing design and construction, product improvements and building processes. We expect that this research will pave the way for expanded opportunities and even greater acceptance of manufactured housing, particularly in urban settings.

With this background, let me say that the manufactured housing industry can play a significantly greater role in meeting our nation's housing needs. The undeserved vehicular or travel image continues to limit the industry's opportunities in the area of site availability and financing. However, to maximize that role, manufactured housing must shed its origins in a vehicular industry.

SITING AVAILABILITY

Certainly the enactment of the HUD code in 1976, set up by Congress to respond to safety concerns, has made it possible to make major inroads in eliminating these barriers. The industry has made progress over the last ten years. Congress and the states have increasingly recognized the important role that the industry plays in the housing market and have taken action to treat manufactured housing on-par with other forms of housing. Oudated land-use and zoning ordinances are being updated. At least eighteen states have enacted legislation to require communities to take steps to ensure that their regulations do not discriminate against manufactured housing. There are a number of favorable judicial decisions as well. A recent state supreme court decision in Georgia ruled that communities cannot discriminate against the placement of HUD code housing in residential neighborhoods as long as the homes are esthetically compatible with other forms of housing.

According to a 1985 survey by the American Planning Association, the HUD code is the primary factor in community acceptance of manufactured housing. According to this survey of over 300 communities, the general public is more receptive to manufactured housing than it was in 1970. The survey identified three factors contributing to greater public acceptance: improved appearance, better quality and affordability.

While we have made substantial progress, we continue to work to address the land-use and regulatory barriers that impede siting availability. The Hiler proposals will help the industry in our efforts to update land-use regulations. We understand that Congress and Secretary Kemp are examining state and local regulatory barriers to affordable housing. We are pleased that such efforts are underway. There is a role for the federal government in this area and we welcome the opportunity to share our experiences and recommendations with the committee.

FINANCING PARITY

While the establishment of the HUD code led to an expansion of financing opportunities for manufactured housing, many barriers still exist to the financing of these homes that mitigate its affordability.

In terms of esthetics and price ranges, manufactured home builders produce a wide range of housing. Unfortunately, manufactured homes are most often viewed as being only one product, an inexpensive home inhabited only by low-income people. As a result, manufactured home loans are put in the category of higher-risk consumer loans that must carry higher rates of interest.

No one can deny that low-income people usually represent poorer credit risks. Manufactured housing's ability to deliver an inexpensive product for low- and moderate-income families without government subsidies is a major contribution that the industry has made to the housing industry. Unfortunately, this has added to the industry's problems in that it is these low- and moderate-income people who are most at peril in economic slowdowns and have higher rates of default. As an unsubsidized form of low-income housing, however, the result of providing housing to people who might not otherwise own their own home manifests itself not in the form of a government outlay for social welfare, as in the case of low-income housing programs, but in the business losses of lenders and insurers who have supported this type of housing by investing in the industry. Hence the low-income manufactured home buyer shows up in credit statistics while the low-income government subsidized home dweller does not.

It is, unfortunately, this low-income segment of the industry that lending institutions, legislators and regulators most often look to to evaluate credit standards for the rest of the industry. The rest of the industry that is a part of a broader housing industry with solid, credit-worthy buyers whose credit performance is as good as the borrower who is buying any other form of housing.

Viewing manufactured housing as a vehicular-type of personal property, rather than housing, limits the industry from realizing its full potential to provide affordable housing to consumers because it limits the range of financing products made available to those consumers. Viewing manufactured housing only as unsubsidized housing for low-income people, rather than recognizing the potential it holds for affordable housing has limited financing programs for the product and hampered affordability. These outmoded images of the product need to be changed and brought up to date.

THE NMHCSS ACT SHOULD BE UPDATED

As the industry continues to address the financing and land-use barriers that impede the availability of manufactured housing, we believe that it is now time to modernize and change the National Manufactured Housing Construction and Safety Standards Act. The act should be amended to properly reflect its role as a housing code rather than a vehicle safety standard.

When Congress first adopted the act, it was responding to perceived safety concerns. Because many states were not regulating mobile homes, the federal government took action. It was at this point that Congress perceived manufactured homes as being somewhat like motor vehicles. Thus, the 1974 act was fashioned after the National Traffic and Motor Vehicle Safety Act. Consequently, the regulatory authority given HUD that year to develop and enforce construction standards for manufactured housing was unlike any other housing or building code.

Since the system has been in place, HUD has rightfully addressed the safety problems. It is now time for the act's purposes to be amended.

The negative emphasis on injuries and death must be modified to a positive emphasis on safe, durable and affordable housing.

THE HILER AMENDMENTS TO MODERNIZE THE NMHCSS ACT

In addition to amending the purpose of the act, the Hiler amendments change the definition of manufactured homes to authorize the design and construction of a manufactured home built with or without a permanent chassis. This will expand housing opportunities for homebuyers, and reduce the costs of manufactured homes that are permanently sited, particularly on basements.

Until 1986, HUD interpreted the law to allow this practice, but it changed its interpretation based on the statutory definition that a manufactured home is built on a permanent chassis. Significant sales have been lost as a result of this change in interpretation. The Hiler amendments remedy this problem.

Contrary to opponents of this provision, removing the permanent chassis will not preempt the state regulation of modular homes, nor will it eliminate the distinction between manufactured homes and modular homes. The distinguishing factor, as I mentioned previously, is the building code to which the home is built. In fact, current law specifically provides for the exclusion of modular homes from the Act. The Hiler amendments do not change this.

Consumers stand to benefit from this provision. Construction and siting costs will be reduced, and opportunities for permanently siting these homes will be enhanced. Homebuyers who choose to purchase a manufactured home that is permanently sited on a foundation and financed as real estate will have higher value in their home, and financing will be improved.

Contrary to opponents of this provision, the structural integrity of the home is not diminished by the removal of the permanent chassis. The home must be designed and constructed to meet the requirements set forth in the Act and the standards which require the "highest standards of protection for safe, quality and affordable" homes. During the 10 years that manufactured home builders were allowed by HUD to design and construct homes with a removable chassis in accordance with HUD standards, we are not aware of any problems with structural degradation, or other consumer complaints.

THE HILER AMENDMENTS SET CLEAR AND REASONABLE GUIDELINES FOR ADOPTING AND ADMINISTERING CONSTRUCTION STANDARDS

The Hiler amendments retain full authority for HUD to set construction standards that provide for the "highest standards of protection for the provision of safe, quality and affordable housing." These amendments require an annual review and updating of the standard, something that is greatly needed because HUD has not kept the standards updated to reflect technological advances and updated industry practices. The amendments also propose codifying existing HUD regulations that call on private-sector consensus organizations to make recommendations to HUD for changes to the standards.

In a 1988 Federal Register notice, HUD announced that it would rely on private-sector consensus organizations to recommend changes to the HUD code. In response, the MHCSS Consensus Committee was organized. This committee is composed of industry representatives, design professionals, federal and state government officials and consumers. This committee has met for almost two years and made about three dozen recommendations to HUD for improvements to the code. It is the hope of our industry that HUD will act in a timely manner to evaluate these recommendations and propose rulemaking.

THE HILER AMENDMENTS IMPROVE THE EXISTING ENFORCEMENT SYSTEM

The Hiler amendments set forth clear guidelines for how HUD should interpret standards to ensure uniform and reasonable interpretations. The amendments strengthen existing law by requiring annual review and certification of third-party agencies who review designs and inspect homes. They also authorize training of these third parties. These changes will fulfill the original intention of the Act by ensuring that these third-party inspectors are doing their job. HUD will retain full authority to review the work and monitor these third parties and to inspect homes.

These changes are necessary because, over the past several years, HUD, through its monitoring agent, has been acting in the role of the third-party inspector, rather than its intended role of monitor. The original act intended that HUD perform only an oversight function. The Hiler Amendments merely clarify that original intent.

THE HILER AMENDMENTS IMPROVE THE EXISTING CONSUMER PROTECTION SYSTEM FOR BOTH CONSUMERS AND MANUFACTURERS

Mr. Chairman, it is the consumer protection provisions of the Hiler Amendments that have caused the most confusion and controversy and, therefore, deserve clarification.

The Hiler Amendments maintain existing repair requirements not found in any other building codes or laws. HUD's interpretation of existing law requires that manufactured home builders correct, for the life of the home, any imminent safety hazard or serious defect, which, by HUD definition, results in "a threat of unreasonable risk of injury or death or severe personal injury." The Hiler amendments combine definitions of imminent safety hazard and serious defect and clarify that the focus of a manufacturer's recall action shall be to eliminate risk of injury or death.

The Hiler amendments eliminate existing notification requirements for a class of defects in homes. Currently, manufacturers must notify when more than one home (class of homes) results in a problem that renders the home unfit for the ordinary use for which it was intended. The Hiler amendments eliminate this unnecessary, and in our view unworkable, requirement designed for automobiles, not homes. This notification requirement has resulted in the need for massive recordkeeping, and time spent by both state regulators and manufactureres to ensure that these records are kept.

The Hiler amendments eliminate notification requirements on failures to conform and defects that are not safety-related. Current law has resulted in the federalization of warranty requirements, appropriately left to the states. The federal motor vehicle act did not envision notification of minor defects, rather it limited itself to so-called "safety-related defects." The grafting of a motor vehicle safety act on to a building code has resulted in the anomoly of requiring a national notification campaign for a situation that would normally be solved under warranty. This is the case with all other building codes and, to the best of my knowledge, with the regulatory schemes of other products. These changes will eliminate recordkeeping and notification of defects which are appropriately left to state warranty laws. These recordkeeping and reporting requirements increasingly burden both retailers and manufacturers and add to the cost of our homes.

The Hiler amendments add a new protection for consumers. The notification requirements are replaced by a mandatory two-year warranty to be provided by all manufactured home builders. This will ensure that all defects, in addition to serious defects which require notification and correction forever, be corrected for a period of two years. It does not override current state warranty laws, and licensing and bonding programs that provide certain consumer protections and correction of defects. To the contrary, the warranty provision states that the warranty must conform to state laws.

We believe that the proposed amendments strike an appropriate balance between federal, state and local consumer protection for manufactured home owners. These are in addition to efforts that the industry is taking to ensure consumer satisfaction with our homes.

INDUSTRY RESPONSE TO CONSUMER CONCERNS

Because our home buyers are increasingly demanding that their problems be taken care of, and because we want to sell more homes, the industry is taking care of most of these problems regardless of federal and state requirements that force us to do so.

Many companies in the industry have initiated significant changes emphasizing their commitment to construction quality in the factory and proper training of personnel. They have initiated surveys and follow-up phone calls to every person whose home has been serviced in order to ascertain their satisfaction level and properly address any questions and problems they might have.

The manufactured housing industry is not alone in its efforts to ensure quality and service for a demanding public. Like other American manufacturers, the industry is making these goals a high priority. Several years ago, MHI, in conjunction with the Federal Trade Commission, developed a consumer booklet, "How to Buy a Manufactured Home." This booklet describes the warranty and other protections for the home purchaser, addresses siting and installation, site preparation, and provides a check list for purchasing and on-site inspection of manufactured homes. Over 250,000 books have been distributed since 1976, and the booklet will be updated next year.

In addition, the industry has been working with the states for several years to seek the adoption of statewide uniform installation standards for manufactured housing. It is clear from our data that a significant number of manufactured home problems result from the improper siting of the home. We believe that increased attention to this concern by the states will result in the reduction of a great majority of consumer complaints.

USER FEES

The Hiler amendments clarify the MHCSS Act to ensure that any research and development for the establishment of standards be funded with appropriated funds. Further, the proposal ensures that the fees paid by manufactured homebuilders are utilized, as they were intended, for monitoring and enforcement of the program. The amendments also set forth specific criteria for testing to be sure that HUD has a legitimate basis for testing real problems in the home. Lastly, the proposal requires HUD to initiate rulemaking for any increase in the fee structure.

Our industry is concerned with the tremendous escalation in the cost of the monitoring contract in recent years. These costs have nearly doubled over the last four years, rising from $1.8 million in 1985 to $3.0 million in 1989, this despite a decline in production of manufactured housing in this same time period.

Because HUD relies on the private sector for recommendations to the standards and because a wide range of tests are performed by independent certification laboratories, HUD should act prudently by justifying their need for additional testing.

CONCLUSION

In conclusion, Mr. Chairman, we believe that the Hiler amendments will modernize an outdated law and help to bring the manufactured housing industry into the mainstream of the shelter market.

The consumer protection requirements proposed by the Hiler Amendments are an improvement over existing law by the addition of a mandatory two-year warranty, and by codifying an enforcement program. Our industry wishes to gain the confidence of consumers, state and federal regulators as well as lenders in manufactured housing.

We do not believe that the Hiler proposal reduces that confidence. We are commited to work with you and your colleagues to address any concerns you may have, and we respectfully urge your support of the Manufactured Home Standards Modernization Amendments contained in H.R. 1180.

Thank you for the opportunity to be here this morning.

Senator **Bryan**. Mr. Connors, we very much appreciate your statement and your oral comments to amplify your written statement, which is a part of the record.

Mr. Mix, it's a pleasure to have you journey back from Las Vegas and join us today, and we would be delighted to hear from you next, sir.

Mr. **Mix**. Thank you, sir.

STATEMENT OF GUB MIX, EXECUTIVE DIRECTOR, NEVADA MANUFACTURED HOUSING ASSOCIATION, LAS VEGAS, NV

Mr. **Mix**. Senator Bryan, my name is Gub Mix. I am the executive director of the Nevada Manufactured Housing Association, headquartered in Las Vegas.

In addition to the pictures that Mr. Connors has presented, I would like to present this to you, and to the committee. This is the new office of the Nevada Manufactured Housing Association as of next month.

Senator **Bryan**. And where are you located, if I might ask?

Mr. **Mix**. This will be located—we run a one-man operation. You're looking at him. And we operate this. This will be in a brand-new rental community in Green Valley, that's built. It's a gorgeous location, and I think it will be a real promotional piece for the industry.

Senator **Bryan**. Make sure you contact our office so we can go out there and look.

Mr. **Mix**. I will.

Senator **Bryan**. Make it a two-man operation, at least for—OK.

Mr. **Mix**. And inspection.

Thank you, sir.

My association, as you know, represents not only the Manufactured Home Builders and the retailers but the community owners, the lenders and our component supplier members.

I appreciate this opportunity to testify this morning and on behalf of the Nevada Manufactured Housing Industry, we sincerely appreciate your interest in this important issue before the committee today.

I know, Senator, that in your capacity as Governor and during your visit last year to a Reno manufactured housing community, that you understand the important role that manufactured homes play in meeting the nation's housing needs.

Under your leadership as Governor of Nevada, the State has made significant progress in providing an economic and regulatory environment that has enhanced the availability of manufactured housing for the home buyers in our State.

I think possibly that it's even more important than you realize, Senator. Our figures indicate that there are more than 70,000 manufactured homes in Nevada, providing housing for nearly 18 percent of our population. There are more manufactured homes per capita in Nevada than in any other State in the nation.

Of those 70,000 plus homes, about 55 percent are located on private property. Forty-five percent in rental communities around the State.

Now, housing prices in Nevada are rising, as you know, with manufactured housing bridging that affordability gap and ensuring that our citizens can enjoy the benefits of homeownership.

Over the last 4 years, one-third of all new single-family homes sold in Nevada have been manufactured homes.

Today, many of our buyers, especially in the southern areas, where I live, are retirees, moving in because of the climate and a favorable tax structure.

For our younger citizens, manufactured housing offers an attractive alternate to renting.

For more than 10 years now, Nevada has had a highly successful regulatory program for our industry, directed by Wayne Tethrall first and now by Joan Clemens. Nevada's installation code and inspection program serves as a model for other States and works extremely well. I speak for the industry and the State by stating that they strongly oppose any proposals for a Federal installation standards program.

It would simply be impossible for HUD to regulate and enforce installation standards which are appropriately left to the States.

The Consumer Recovery Fund, in use for a number of years, was expanded in 1989 by the legislature to be sure that every customer had back-up protection in the event of non-performance by a licensed retailer, installer or manufacturer.

The State Manufactured Housing Division serves as the State Administrative Agency for HUD, monitoring the program, handling in-State problems and complaints in a very professional manner.

The SAA program is an important component in the Federal Manufactured Housing Construction and Safety Standards Program and is not in any way altered by Congressman Hiler's amendments.

The State regulatory program in combination with the Federal Standards and Enforcement Program has had a very positive impact on both consumers and the industry. And my opinion is it's one of the finest in the country.

I might add, too, that the manufactured housing industry, while having the advantage of a greater uniformity in its regulatory structure, is regulated to a far greater degree than other sections of the housing market, particularly in the areas of consumer protection.

Senator Bryan, the Manufactured Housing Standards Modernization Amendments included in H.R. 5157 or 1180—we referred to both—are important to the industry in Nevada for many reasons, and I'd like to cover just some of these, if I may.

Senator BRYAN. You bet.

Mr. CONNORS. The Hiler amendments contain a provision to remove the antiquated requirement that all manufactured homes be built on a permanent chassis.

In our view, Mr. Chairman, this provision has perhaps the most important impact on the availability of affordable housing to Americans today.

By requiring a permanent chassis for homes that are permanently sited adds unnecessarily to the construction and installation costs of a manufactured home. And the consumer pays.

In Nevada, manufactured homes are increasingly being permanently sited and sold as real estate. Consumers receive the benefit and value of owning both the land and the home. Financing is far better for that type of transaction.

There often is no structural value in requiring the chassis to be left on the home that is permanently sited. For example, when the wooden flooring is designed to span load-bearing walls. The provision in the Hiler amendments removes a significant barrier to more affordable housing.

The Hiler amendments direct the Secretary to establish construction and safety standards that, quote, "meet the highest standards of protection for the provision of safe, quality and affordable manufactured homes."

Now, that's a tough requirement. It's higher than is required by our Nevada State and Local building codes for site-built housing and other State-regulated factory-built housing.

The Hiler amendments require manufactured home builders to provide consumers with a 2-year warranty, the first and only national mandatory warranty program for housing. As you know, in Nevada, there is no State warranty requirement. The Hiler provision would give homeowners that protection that they do not currently have.

The Hiler amendments require that manufactured home builders notify HUD and the consumer of any serious defects. The manufacturer must fix at no expense to the owner the serious defect for the life of the home. Once again, no other type of housing must meet this stringent requirement.

The Hiler amendments require manufactured home builders to provide a clear, understandable and detailed installation manual to help retailers install the home properly, whether it goes on a permanent foundation or on a rental site. This will enhance the comprehensive installation and enforcement program in Nevada.

The Hiler amendments will eliminate current requirements for class searches and possible notification for minor problems. And, thus, will end the costly, time-consuming paper chase for inconsequential errors.

Now, both manufacturers and the State administrative agents who handle consumer complaints will be able to focus more on getting those serious defects taken care of.

In conclusion, Senator Bryan, I urge the Senate to support the manufactured housing provisions contained in the House version of the Housing bill.

I want to thank you for this opportunity to testify. I'm happy to answer any questions that you might have.

[The complete prepared statement of Gub Mix follows:]

STATEMENT OF
NEVADA MANUFACTURED HOUSING ASSOCIATION
BY
GUB MIX, EXECUTIVE DIRECTOR
BEFORE
U.S. SENATE
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS
THE HONORABLE RICHARD H. BRYAN

HEARING ON MANUFACTURED HOUSING CONSTRUCTION AND
SAFETY STANDARDS ACT OF 1974

JULY 26, 1990

NEVADA MANUFACTURED HOUSING
ASSOCIATION
P.O. BOX 12575
RENO, NV 89510-2575
(602) 966-9221

Senator Bryan, my name is Gub Mix. I am the Executive Director of the Nevada Manufactured Housing Association located in Las Vegas. My association represents manufactured home builders, retailers, community owners, lenders and component supplier members. I appreciate the opportunity to testify this morning, and on behalf of the Nevada manufactured housing industry, we sincerely appreciate your interest in this important issue before the committee today.

I know, Senator, that in your capacity as Governor, and during your visit to a Reno manufactured home community last year, that you understand the important role manufactured homes play in meeting the nation's housing needs. Under your leadership as Governor of Nevada, the state has made significant progress in providing an economic and regulatory environment that enhanced the availabilty of manufactured housing for homebuyers in Nevada.

My testimony will illustrate the importance of the federal manufactured housing program in Nevada, and how, together with state initiatives, the industry can enhance the availability of affordable housing for the citizens of our state.

There are more than 70,000 manufactured homes in Nevada, providing housing for nearly 18% of our population...that's approximately 180,000 people. There are more manufactured homes per capita in Nevada than any other state in the nation. Of those 70,000 plus homes, about 55% are located on private property and 45% in rental communities around the state. Housing prices in Nevada are rising, with manufactured housing bridging that affordability gap and ensuring that our citizens can continue to enjoy the benefits of home ownership. In fact, over the last four years, one-third of all new, single-family homes sold in Nevada have been manufactured homes. Today, many of our buyers, especially in the southern areas, are retirees, moving to the Silver State because of the climate and favorable tax structure. For our younger citizens, manufactured housing offers an attractive alternative to renting.

The need for moderately priced housing in the state is significant, and despite changing demographics, the projected growth in the state will increase the demand for housing. Several important state programs, and the federal manufactured home construction and safety standards program, created a conducive environment for manufactured housing's significant role in Nevada's shelter market.

For more than 10 years now, Nevada has had a highly successful regulatory program for manufactured housing, first directed by Wayne Tetrault and now by Joan Clements.

Nevada's installation code and inspection program serves as a model for other states and works extremely well. I speak for the industry in the state by stating that they strongly oppose any proposals for a federal installation standards program. It would simply be impossible for HUD to regulate and enforce installation standards which are appropriately left to the states.

The consumer recovery fund, in use for a number of years, was expanded by the 1989 legislature to be sure that every customer had backup protection in the event of non-performance by a licensed retailer, installer or manufacturer. The state manufactured housing division also serves as the State Administrative Agency (SAA) for HUD, monitoring the program, handling in-state problems and addressing consumer complaints, in a professional manner. The SAA program is an important component of the federal manufactured home construction and safety standards program and is not in any way altered by Congressman Hiler's amendments.

The state regulatory program, in combination with the federal standards and enforcement program for manufactured housing, has had a positive impact on both consumers and the industry, and is ranked among the leading programs in the nation. I might add too, that the manufactured housing industry, while having the advantage of greater uniformity in its regulatory structure, is regulated to a far greater degree than other sectors of the housing market, particularly in the area of consumer protections.

There are still some significant barriers to manufactured housing, particularly site availability and financing. The industry is making progress toward eliminating these discriminatory practices. While much of the work we are doing is state related, there is a role for the federal government. For example, both Senate and House housing bills contain provisions to encourage communities to eliminate state and local barriers to affordable housing. The FHA program should be reformed to make more FHA loans available to manufactured homebuyers. Although not the subject of these hearings, we would be happy to provide you and members of the committee with specific suggestions in this regard.

Senator Bryan, the Manufactured Housing Standards Modernization Amendments included in H.R. 1180 are important to the industry in Nevada, and in my view, will improve and enhance consumer acceptance of factory-built housing. The Hiler amendments eliminate outdated provisions related to vehicles, and recognize manufactured homes as legitimate housing rather than automobiles or trailers. In recognizing the legitimacy of manufactured homes, some of the state and local regulatory barriers that I mentioned will be reduced.

The Hiler amendments will be good for homebuyers in Nevada and I would like to explain why.

- The Hiler amendments contain a provision to remove the antiquated requirement that all manufactured homes be built on a permanent chassis. In our view, Mr. Chairman, this provison has perhaps the most important impact on the availability of affordable housing to Americans. By requiring a permanent chassis for homes that are permanently sited adds unnecessarily to the construction and installation costs of a manufactured home, and the consumer pays. In Nevada, manufactured homes are increasingly permanently sited and sold as real estate. Consumers receive the benefit and value of owning both the land and the home. Financing is better under such a transaction. There often is no structural value in requiring the chassis to be left on the home that is permanently sited. For example, when the wooden flooring is designed to span load-bearing walls. This provision in the Hiler amendments removes a significant barrier to affordable housing.

- The Hiler amendments direct the Secretary to establish construction and safety standards that "meet the highest standards of protection for the provision of safe, quality and affordable" manufactured homes. This is a tough requirement, higher than that which is required of state and local building codes for site-built housing, and other state-regulated factory-built housing.

- The Hiler amendments require manufactured homebuilders to provide consumers with a two-year warranty --- the first and only national mandatory warranty requirement for housing. In Nevada, where there are no state warranty requirements, the Hiler provisions will give homebuyers more protection than they currently have.

- The Hiler amendments require that manufactured homebuilders notify HUD and the consumer of any serious defects, the manufacturer must fix, at no expense to the owner, the serious defect for the life of the home. No other type of housing must meet this stringent requirement.

- The Hiler amendments require manufactured homebuilders to provide a clear, understandable, and detailed installation manual to help retailers install the home properly -- whether it is on a permanent foundation or a rental site. This will enhance the comprehensive installation and enforcement program in Nevada.

- The Hiler amendments will eliminate current requirements for class searches and possible notification for minor problems, and thus will end the costly, time-consuming paper chases for inconsequential errors. Both manufacturers and State Adminstrative Agents who handle consumer complaints will be able to focus on getting any serious defects fixed.

- The Hiler amendments will codify, and thereby add certainty to, the current regulatory inspection and enforcement procedures, by requiring annual recertification of plan reviewers and production inspectors. This will ensure that inspections are performed by qualified, experienced personnel, and that the regulations are enforced uniformly.

In conclusion, Senator Bryan, I urge the Senate to support the manufactured housing provisions contained in the House version of the housing bill. Thank you for the opportunity to testify. I am happy to answer any questions you may have.

Senator **Bryan**. Mr. Mix, we thank you very much for your testimony.

And, Mr. Hussey, we will hear next from you. And let me extend to you the same flexibility of the two preceding witnesses. We let everybody go over a little bit in the first panel, so don't feel unduly constrained if there's an extra point that you have to make.

Mr. **Hussey**. Thank you, sir.

STATEMENT OF EDWARD J. HUSSEY, JR., CHAIRMAN, GOVERNMENTAL RELATIONS COMMITTEE, ASSOCIATION FOR REGULATORY REFORM, WASHINGTON, DC AND JIM SHAE, JR., EXECUTIVE COMMITTEE CHAIRMAN, FAIRMONT HOMES INC.

Mr. **Hussey**. Thank you, Senator Bryan. My name is Edward J. Hussey, Jr. I'm vice president of Liberty Homes Inc. and chairman of the Government Relations Committee of the Association for Regulatory Reform.

With me here today to help answer some of your questions is Jim Shae, Jr., executive committee chairman of Fairmont Homes Inc.

Liberty Homes is one of the oldest producers of manufactured homes in the United States, having first opened its doors in 1941. Fairmont Homes is also a manufactured home producer and also a modular home producer. So, maybe Mr. Shae can help us clear up some of the questions you may have on the removal of chassis issue.

I'd like to thank the chairman for convening this hearing and for inviting us to be here today.

The Senate's interest in manufactured housing is welcome because it was here that in September 1988 ARR first proposed statutory reforms that eventually led to the Hiler amendments passed on June 13, 1990 by the House committee on Banking, Finance and Urban Affairs.

Although the Senate took no action at that time, members of the House committee began to acquaint themselves thoroughly with all aspects of manufactured housing industry, including the construction, marketing, retailing, financing and consumer use of our homes.

Many Congressmen visited some of our factories, some of our subdivisions and parks and familiarized themselves, as you did, with the product we produce.

This background proved valuable to the committee in addressing Representative Hiler's amendments. A thorough grasp of the complex issues involved is needed in order to appreciate the current condition of our industry.

The House committee that approved the amendments had such an understanding. The bill that it produced is not perfect by any means but represents a step in the right direction—the first step, incidentally, that has been taken since the passage of the original act in 1974.

Mr. Chairman, manufactured housing should today be enjoying a period of unprecedented growth and popularity as the only source of truly affordable, non-federally-sized homeownership in the United States. While some 12.5 million Americans live in manufactured homes, the industry is not only not realizing its potential growth, but is, in fact, in decline.

Instead of being in the vanguard of an affordable housing reconnaissance, the industry is languishing with production at its lowest point since 1964.

It should not be surprising, therefore, that the industry has lost since 1976 approximately one-half of the manufacturers and manufacturing facilities. Regretfully, the ultimate victim of that type of dislocation is the homeowner. American families are forced to seek affordable housing from a smaller pool of manufacturers in a smaller market with less flexibility of choice.

We believe that one of the causes of this decline is the statute that Congress passed to regulate the industry. Based on a Motor Vehicles statute, the Manufacturing Home Construction and Safety Standards Act of 1974 needs serious revision. Our product should be recognized for what it is: housing, not automobiles.

Legislative relief is necessary to reform a cumbersome regulatory system that has taken on a life of its own. In the HUD manufactured housing program, we have a third party contractor to whom HUD has abdicated much of its regulatory authority. This contractor has established the so-called monitoring system, which, in effect, alters the code to which we build our homes without any consensus review or any substantive input from industry, consumers, local government, outside engineers or other interested parties.

The objective in this entire legislative effort was to modernize the act, to recognize manufactured homes as homes, to continue the act's consumer protection provisions and to relieve some of the misdirected regulatory scheme.

The House Banking Committee amendments accomplished several of these goals. Some detractors to the amendments have claimed that these amendments and the industry itself are anti-consumer. I believe it is absurd to contend that we do not care about our customers. Liberty Homes has been around for 50 years in this industry and other industry members, such as Redman Homes in Dallas, TX; Champion Home Builders in Dryden, MI have been in the business for over 50 years. Fleetwood Enterprises of Riverside, CA next year will be 40 years old.

Homes of Merit, Bartow, FL has been in the business for over 20 years, and Clayton Industries, Knoxville, TN, opened its doors in 1964.

Manufactured home producers do not advertise on a national basis. As a result, we depend upon customer satisfaction and referrals as an important source in the business.

Although our homes, like any other human endeavor, are not perfect, we strive to make every effort to produce a safe, quality product and to render necessary service after sale.

I do not believe that the amendments passed by the House committee are, in the industry's eyes, perfect. But, to contend that these amendments are in any way anticonsumer is simply not a fair characterization.

Manufactured home purchasers, under the amendments, would benefit from protections that other owners of other types of housing can only wish for—a life time warranty against serious defects, notification of serious defects, a mandatory 2-year warranty and a checklist to identify warranty items on installation of the home.

These protections, provided free of charge to the consumer, go well beyond the requirements for other types of housing.

Manufacturers follow a rigorous quality control procedure and, at this point, I would like to clarify something Mr. Reville was talking about. I believe you asked him about the inspection system in plants.

Mr. Reville was correct in his description of the IPIA participation and the NCSBCS participation in that process.

However, the regulations and law go further and require that the manufacturer himself set up a quality control system, that is then approved by a third party contractor with HUD in IPIA or DAPIA. And that procedure must—that must be an ongoing procedure.

Liberty Homes, for example, each individual job required to construct a given home is examined by one of our foremen. He is the first line in the quality control system. Further inspections are then conducted by quality control personnel in our plant. Each one of these quality control inspectors must be experienced in the Department which he inspects, and he must be able to read blueprints and interpret the results of diagnostic testing and must pass a course based on the AQL interpretations of the HUD code, which must be passed with 100 percent score.

In addition to those inspections, we come up with the IPIA's and DAPIA's that Mr. Reville was talking about. The purpose of the IPIA, the in plant inspection agency, is to ascertain whether the federally approved quality control system of the manufacturer is, in fact, operating properly.

That is the purpose of the IPIA in the plant. It is not the purpose of the IPIA in the plant to inspect each and every house in each and every stage of construction and look at each and every job function that is performed in the plant.

It is the IPIA's function to go in to see that the manufacturer's quality control system is working properly.

NCSBCS inspection of the IPIA's, which the new law states will be once a year but maybe more often if the NCSBCS team or the contractor, contracting team, determines that the IPIA needs further surveillance.

That inspection of the plant is designed to make sure that the IPIA system is working and to ascertain whether there are any systems problems with the manufacturer's quality control system.

The result of all of this inspection, not to mention I probably should get into our construction techniques as well, but we build a—we believe—we build a high-quality and affordable product for Americans.

Mr. Mix touched on another area which has raised some concerns and that is a national installation standard. There are in place numerous State and local laws which address this inherently local issue, which are enforced by HUD-certified administrative agencies within the States. While Nevada does not have a warranty law, I believe Nevada, as I'm sure the Chairman is aware, has a very effective State-enforced installation standard for manufactured homes.

But, what is advisable in Nevada may not be advisable in Up-State New York or Maine as an installation standard for manufactured homes. Local differences may require a different foundation system, different anchoring system for the homes. And I think that the system that's now in place of State installation standards and recommended installation standards by the manufacturers and State installation standards is a much more practical system.

In short, Mr. Chairman, I think the amendments that were approved by the House of Representatives, Banking Committee, begin the necessary process of informing—or reforming the manufactured housing program without in any way diminishing the substantive protections afforded to consumers.

And for these reasons, the amendments deserve the support of this subcommittee and the Congress as a whole.

I'd like to thank you again for the opportunity to speak to you here today, and I think we all stand ready to answer any questions you may have.

[The complete prepared statement of Edward J. Hussey, Jr., follows:]

Association For Regulatory Reform

1331 Pennsylvania Avenue, N.W., Suite 508 • Washington, D.C. 20004 • 202/783-4087 • FAX 202/783-4075

WRITTEN TESTIMONY
OF THE
ASSOCIATION FOR REGULATORY REFORM

BEFORE THE
HOUSING AND URBAN AFFAIRS
SUBCOMMITTEE OF
THE SENATE COMMITTEE ON
BANKING, HOUSING AND URBAN
AFFAIRS

Washington,D.C.
July 26, 1990

TABLE OF CONTENTS

INTRODUCTION 1

1. THE PROPOSED AMENDMENTS MAINTAIN A LEVEL OF CONSUMER PROTECTION THAT IS UNMATCHED BY ANY OTHER TYPE OF HOUSING 3

2. THE ACT SHOULD CONTAIN SPECIFIC PROCEDURES FOR THE EVALUATION OF THIRD-PARTY INSPECTION AGENCIES 4

3. THE CURRENT REQUIREMENT FOR A PERMANENT CHASSIS IS OUTDATED, UNNECESSARY AND TOTALLY UNRELATED TO ANY CONSIDERATION OF SAFETY OR QUALITY 6

4. THE ACT SHOULD EMPHASIZE BOTH AFFORDABILITY AND THE PERFORMANCE-BASED ORIENTATION OF THE STANDARDS 8

5. THE SECRETARY'S AUTHORITY TO CONDUCT RESEARCH, DEVELOPMENT, TESTING AND TRAINING SHOULD BE DEFINED IN ACCORDANCE WITH THE PURPOSES OF THE ACT 9

6. THE ACT SHOULD INCLUDE CRITERIA FOR THE USE AND COLLECTION OF INSPECTION FEES 10

7. MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS SHOULD BE CONSTRUED AND INTERPRETED IN ACCORDANCE WITH PROCEDURAL SAFEGUARDS 11

8. THE NATIONAL MANUFACTURED HOME ADVISORY COUNCIL SHOULD NOT BE EXCLUDED FROM THE REGULATORY PROCESS 11

9. THE CURRENT STATEMENT OF PURPOSE IS UNJUSTIFIABLY NEGATIVE AND OVERBROAD 12

CONCLUSION 14

INTRODUCTION

This written submission to the Housing and Urban Affairs Subcommittee of the Senate Committee on Banking, Housing and Urban Affairs ("Subcommittee") is made on behalf of the Association for Regulatory Reform. ARR is a non-profit national trade association, formed in July 1985 to represent the views and interests of producers of manufactured homes, specifically with respect to federal regulation of the manufactured housing industry. Consistent with this mandate, ARR welcomes this opportunity to participate in the subcommittee's consideration of Amendments to the National Manufactured Home Construction and Safety Standards Act of 1974 ("Act"), recently approved by the House of Representatives Committee on Banking, Finance and Urban Affairs ("House of Representatives Banking Committee"). These Amendments, and the proceedings here today, will chart the course for the manufactured housing industry through the 1990's and into the twenty-first century. Nothing less is at stake in this process than the availability of affordable, non-subsidized homes for millions of Americans.

Manufactured housing should today be enjoying a period of unprecedented popularity and growth, being the only form of truly affordable non-subsidized housing. On average, the structural cost (i.e., not including land) of a manufactured home is $25,000.00 or 21.30 per square foot, as compared with a structural cost of $100,000.00, or $50.57 per square foot for a site-built home. Eighty percent of the homes sold in the United States today for under $50,000.00 are manufactured homes. Through this price differential, manufactured housing offers the prospect of home ownership to millions of Americans who, otherwise, would be totally excluded from the housing market. Indeed, as the members of this Subcommittee know all too well, our nation today faces a housing crisis of unprecedented proportions, as the cost of many forms of housing has exceeded the earning capacity of ordinary working people.

Despite this overwhelming need for affordable housing, the manufactured housing industry is slowly disappearing. In 1973, 566,920 units were produced by domestic manufacturers. By contrast, in 1989, only 198,083 units were produced. The industry, since the adoption of the Act, has never produced more than 300,000 homes per year, and has seen a decline in production for 59 of the last 70 months. The same trend is reflected in the number of manufacturers and manufacturing facilities. In 1976 there were 229 producers of manufactured homes in the United States. Today, there are no more than 120. Simarly, in 1976, there were 500 manufactured home production facilities in operation in the United States. Today, there are no more than 275 such facilities.

Faced with a decline of this scope and breadth, producers of manufactured homes are understandably concerned. Although it would be simplistic to contend that the current ills of the manufactured housing industry are solely to blame on the Act and the enforcement apparatus developed by the Department of Housing and Urban Development ("HUD"), the correlation in the statistics between the adoption of the Act and the decline of the industry cannot be denied or ignored. While market factors abound, the fact remains that manufactured housing is a federally-regulated industry, and the ultimate health of any such industry is inevitably a function of the practicability and fairness of the governing regulatory scheme. Accordingly, if manufactured housing is to rebound from its current decline, and achieve its true potential as a national source of non-subsidized affordable housing, some adjustments to the Act will be necessary. It is entirely proper, moreover, after sixteen years of regulation under the Act, to consider modifications suggested by experience, that can improve the Act and render it more equitable for all concerned.

By seeking to amend the Act, the industry is not pursuing deregulation, as some have suggested. Instead it is seeking re-regulation - - a process of statutory reform that will strengthen due process protections under the Act and reduce some of the administrative burdens now imposed upon manufacturers, but will, nevertheless, assure a safe, high quality product. The industry's commitment to building quality homes has never been in doubt. Manufactured home producers, unlike other homebuilders, do not conduct national advertising. Their sales depend totally upon customer satisfaction and consequent referrals. The issue, instead, at this juncture, is whether the current regulatory maze and abusive enforcement practices that have helped cripple the industry, to the detriment of lower and middle income Americans, will be laid to rest and replaced by procedures consistent with the rule of law. If this is to be achieved, statutory reform, as represented by the Amendments approved by the House of Representative Banking Committee is essential.

ARR appreciates the Senate's interest in issues affecting the manufactured housing industry, and the opportunity that it has been afforded to present its views to the Subcommittee. ARR first began its effort to promote statutory reform here in the Senate. In a September 5, 1988 letter to Senators Cranston and D'Amato, ARR proposed that certain amendments to the 1974 Act be included in a draft of the National Affordable Housing Act (S-566), then under consideration (Attachment 1). When the Senate turned its attention to other subjects, however, the focus of ARR's activities shifted to the House of Representatives. For some two years, the House of Representatives Banking Committee was offered a complete overview of the manufactured housing industry, including, retailing, marketing, construction, actual consumer use, but primarily regulatory matters. As a result, the Amendments approved by the House of Representatives Banking Committee rest upon a full understanding of the industry, its consumers, and the difficulties that it faces.

Although ARR is pleased that the Subcommittee has recognized the importance of manufactured housing as a source of affordable non-subsidized homeownership and is now studying the issues affecting the industry as a whole, a complete understanding of such complex matters will take time. In the interim, the Subcommittee should not pre-judge the amendments approved by the House of Representatives Banking Committee, or take precipitous action based on an incomplete factual records. The Amendments, as explained in greater detail below, help achieve some of the substantive and procedural reforms so desperately needed for this program, while simultaneously strengthening consumer protection aspects of the Act. Under the Amendments, for example, manufactured home producers will be the only homebuilders to provide for lifetime repair and notification of "serious defects," together with a mandatory two year warranty. In short, the Amendments approved by the House of Representatives Banking Committee represent a proper step toward statutory reform, and should receive the approval of both Houses of Congress.

1. The Proposed Amendments Maintain a Level of Consumer Protection That Is Unmatched By Any Other Type of Housing.

Notwithstanding the criticism of detractors, the Amendments will continue to afford the purchasers of manufactured homes with considerably greater protections and remedies than those currently available to consumers of other types of housing. The Amendments do not in any manner undermine consumer protection, as has been alleged, and, in some cases, actually strengthen that protection.

The Amendments, for example, at Section 616(b), provide for a two-year mandatory warranty from the date of purchase. This is the first and only national mandatory warranty for housing. Although critics of the Amendments contend that the warranty is deceptive because its terms are not specifically prescribed, this omission is intentional, because of the preemptive nature of the Act. As presented by the Amendments, the content of the warranty would be determined in accordance with state law. In this manner, consumers will receive the benefit of any specific requirements imposed because of local conditions, including the benefit of any longer term warranty described by state law. This warranty requirement in itself goes well beyond any protection afforded without additional charge to purchasers of other forms of housing. Every manufactured home, therefore, will be protected for at least two years.

Second, the Amendments, in Section 615, require manufacturers to notify HUD, the home retailer and the purchaser of any serious defect, as defined, and require the manufacturer to correct any such defect at no cost to the buyer for the life of the home. Again, these protections are unique to manufactured housing. In addition, the Amendments add a requirement for a clear and complete installation manual, including a checklist to assist consumers identify items within the scope of the builder's warranty.

While the Amendments continue the significant consumer protection features of the Act, they will, to some extent lessen the onerous paperwork requirements associated with class certification and with notifying consumers and HUD of each and every failure to comply with a Federal Manufactured Home Construction and Safety Standard regardless of whether that non-compliance has any bearing upon the safety of the home. Instead of such costly notification procedures, consumers will be well-protected by the new mandatory two-year warranty imposed by the Amendments.

The Amendments, consequently, provide consumers with warranty protection for two years, and require the correction of serious defects for the life of the home. Any objective analysis would demonstrate that these guarantees are significant, and that they far surpass the rights and remedies enjoyed by purchasers of other types of homes. Manufactured home buyers have a right to expect that they will receive a safe and quality product. This right is recognized and respected by manufacturers who wish to survive in today's competitive market place. The Amendments will ensure the production of such homes, while at the same time affording manufacturers some relief from the onerous and expensive record-keeping requirements of the present Act.

2. The Act Should Contain Specific Procedures for the Evaluation of Third-Party Inspection Agencies.

In its current form, the Act authorizes "inspections" in order to ensure compliance with the Act and with Federal Manufactured Home Construction and Safety Standards. The Act, however, provides no substantive guidance for exercising that authority. In this statutory vacuum, HUD, by regulation, has created a multi-layered inspection system consisting of third-party inspection agencies -- including both Design Approval Primary Agencies ("DAPIA") and In-plant Production Inspection Primary Inspection Agencies ("IPIA") -- as well as a "contract agent", ostensibly charged with evaluating the performance of the third-party inspection agencies.[1] Neither the Act nor the regulations, however, specify the manner in which the third-party agencies are to be regulated. As a result, the contract agent, by default, has been accorded virtually unlimited discretionary authority to review agency performance.

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[1] See Attachment 2, supra.

This unchecked authority represents the single most devastating operational deficiency of the present Act. Absent statutory guidance, the contract agent has, for example, developed the "Acceptable Quality Level" ("AQL") system as a basis for its reviews. Although these reviews are officially conducted to evaluate the performance of the third-party agencies, they have increasingly focused upon the direct detection and remediation of manufacturing discrepancies. Moreover, the AQL system, although ostensibly merely a checklist for IPIA and DAPIA performance, has become, in effect, a prescriptive standard for measuring manufacturer performance, notwithstanding the fact that AQL has never been promulgated as a regulation or subjected to notice and comment scrutiny. In-plant inspections by the contract agent, accordingly, have evolved into direct inspections of the manufacturer's products, with the contract agent operating as HUD's surrogate regulator.

This surrogate status has been enhanced by the lack of competition that has characterized the contracting process for the contract agent's position. The current contract agent has held its position continuously since the start of the Federal Manufactured Housing Program. Each time that its contract has been rebid, the Request for Proposals has been more narrowly drawn. As a result, the most recent RFP virtually prescribed an award to the incumbent. ARR is aware of 6-7 potential bidders, including nationally-recognized organizations, that refused to submit a proposal due to the unduly restrictive conditions of the RFP. ARR, accordingly, filed a petition with then-Secretary Samuel Pierce, asking that the RFP be withdrawn. This request, however, was summarily rejected. As a result, the contract agent, a private party not bound by checks and balances applicable to government, has become entrenched in its position.

Quite simply, this regulatory system is stifling the manufactured housing industry. Its facilities and products are inspected, re-inspected and then re-inspected again, for conformance with AQL criteria which are neither standards nor authorized by statute. In effect, the rule of law has been superseded or displaced by a regulatory apparatus that is most readily characterized by its arbitrariness. This system has cost and continues to cost manufacturers untold sums that are ultimately reflected in the retail prices of homes. These costs result from the losses in efficiency that occur when repeated inspections by the contract agent focus on prescriptive requirements involving construction minutiae,[5] as opposed to the performance of specific home systems.[6] An assembly line worker cannot function effectively if he is constantly checking to see whether a given nail is a fraction of an inch out of place. Intervention on such a minute scale by the contract agent, moreover, is not only wasteful, but unnecessary as well. Manufacturers employ their own quality control personnel, who, by training and experience, are thoroughly familiar with the construction process and the HUD code.

The Amendments, as approved by the House of Representatives Banking Committee, attempt to remedy the current deplorable situation by providing specific criteria for the monitoring of IPIA and DAPIA performance. Essentially, the Secretary is directed to review, on an annual basis, reports prepared by the inspection agencies, detailing each inspection and design review performed. Based upon this review, the Secretary would determine whether the agency deserves to be recertified for another year. ARR supports these measures as a means of bringing order out of the uncontrolled chaos that has typified the manufactured housing regulatory system for years.

3. The Current Requirement for a Permanent Chassis is Outdated, Unnecessary and Totally Unrelated to any Consideration of Safety or Quality.

The current Act defines a manufactured home as a "structure . . . built on a permanent chassis." See, 42 U.S.C. Section 5402(6). A permanent chassis is mandated, ostensibly, so that the home can be easily moved from one site to another. This discriminatory requirement, however, treats the manufactured home more like a vehicle than a residence, and is simply outdated.

Many of today's homebuyers purchase a manufactured home for sheer affordability, and have no intention of moving the home once it is installed. For these purchasers, who install their homes over a permanent foundation, a "permanent chassis," consisting of two steel I-beams, is a useless appendage that has no impact whatsoever on the safety of the home, but can, nevertheless, add $800.00 to $3000.00 to the cost of the home. The chassis also prevents a permanently-sited manufactured home from being used in conjunction with a conventional basement. As a result, the chassis requirement has needlessly increased the cost of manufactured homes, while simultaneously limiting the consumer's freedom of choice and stifling innovation in the development of manufactured homes designed for single-site use.

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[5] This is contrary to the original intent of the Act, to create a system of performance standards. Performance Standards permit flexibility and innovation, which are the keys to affordability.

[6] See e.g., Attachment 3, regarding AQL Item No. 50, addressing, among other things, the correct number of fasteners to be used for a bathtub.

Quite simply, consumers should be entitled to determine whether they require a home capable of being moved, or a single-site home without a superfluous, yet costly, permanent chassis.[4] Without such freedom of choice, manufactured homes will continue to be relegated to the status of vehicles, and will remain at a competitive disadvantage when compared with other types of housing. The Amendments, as approved by the House of Representatives Banking Committee, properly deal with this issue by deleting the permanent chassis requirement.

Some detractors of the Amendments contend that repeal of the permanent chassis requirement will either blur or erase the lines of distinction between manufactured and modular homes, and will result in the preemption of state codes governing modular housing. This concern, however, is without foundation. Section 604(h) of the Act currently provides:

> The Secretary shall exclude from the coverage of this title any structure which [is]: (3) designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a state or local modular building code recognized as generally equivalent to building codes for site built housing.

Nothing in the amendments, however, would change this provision. The act, then, irrespective of the modifications contained in the Amendments, will continue to expressly exclude modular housing. The Amendments, therefore, will not result in the wholesale preemption of state modular housing codes as some have suggested.

Furthermore, the mere presence of a chassis is not what distinguishes manufactured homes from modular housing. The distinction lies in whether a home is built to conform to the requirements of a state modular code or the requirements of the Federal HUD code. Given the language of Section 604(h)(3), homes will continue to be built to comply with either the Federal code or the state codes, but not both, depending upon the manufacturer's selected market. Accordingly, there is no rational basis for subverting the public's right to choose between multiple site manufactured homes with a permanent chassis, and single-site homes with a removable chassis.

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[4] See, Attachment 4, letter of Shirley A. Burley, Commissioner, Michigan Mobile Home Commission to Senator Donald Riegle (June 29, 1990) expressing support for the right of consumer choice on this issue.

4. The Act Should Emphasize Both Affordability and the Performance-based Orientation of the Standards.

The sponsors of the 1974 Act recognized that manufactured homes are an important source of affordable housing. As a result, the Act states, at Section 604(f)(4), that the Secretary, in establishing standards, must "consider the probable effect of such standard on the cost of the manufactured home to the public". There exists an inherent tension, however, between this mandate and the Act's current command to the Secretary based on the state of the industry in 1974, to "improve" the quality and durability of manufactured homes. The ultimate result of this tension has been a steady erosion in sensitivity toward the acquisition cost of manufactured homes.

In order for manufactured homes to remain affordable, while at the same time offering a safe and quality living environment, the Act must stress affordability as an objective in itself, on equal par with the goals of safety and quality. Idealistic standards of protection, while laudable, will ultimately undermine the status of manufactured homes as affordable housing, unless tempered by reality and a recognition that reasonable standards of protection, not absolute perfection, are the appropriate expectation of every homeowner, no matter what type of housing is involved.

Toward this end, the Amendments approved by the House of Representatives Banking Committee require the Secretary to establish construction and safety standards that are "reasonable, practicable, and stated in objective terms," and designed to meet the highest standards of projection for the provision of "safe, quality and affordable manufactured homes." Again, such statutory guidance is essential in order to avoid arbitrary regulation and to ensure the rule of law. In addition, the Amendments properly reiterate the performance orientation of the standards, by requiring that new standards be stated in "objective terms."

These modifications should promote reasonable standards that will result in a quality product without compromunising affordability. Under this formulation, affordability is not exalted over other objectives, but neither is it relegated to oblivion while zealous regulators seek to impose ever higher standards that have absolutely nothing to do with safety or quality, and that are not met in even the most expensive homes. The Amendments, accordingly, make some improvement in reaching a reasonably equitable balance of interests.

Finally, it has been suggested that transportation and installation standards should be added to the Act. Installation standards, however, would be problematic because of varying local conditions across the nation. An installation that would be safe and appropriate in one locale, would not necessarily be appropriate or even feasible in another. Furthermore, local jurisdictions, most likely, would be hesitant to surrender their authority over installation issues. Many jurisdictions, such as Nevada, have strong installation laws, which would be preempted in the event that Federal standards were enacted. While the industry does support installation laws, this is a decidedly local issue which is best left at that level. Transportation, on the other hand, presents a somewhat different issue. Every manufactured home is designed to be transported over-road to a homesite. Moreover, to the extent that minor transportation-related damage does occur, it is invariably repaired at the cost of the retailer or manufacturer, or the transport company, if the home-movers are found to be at fault. Quite simply, from the information that we receive from retailers, transportation damage, at this time, does not represent a major national consumer problem.

5. The Secretary's Authority to Conduct Research, Development, Testing and Training Should be Defined in Accordance with the Purposes of the Act.

Section 608 of the present Act is yet another example of the Secretary's open-ended mandate. The section focuses primarily upon research, development and testing pertaining to "accidents involving manufactured homes," and the "occurrence of death, personal injury or damage resulting from such accidents." Clearly, though, this language pertains to vehicles, not permanently sited homes. Nevertheless, the expansive authority conferred by Section 608 has been used by HUD to expend funds paid by manufacturers for inspection services, to finance all manner of research constituting little more than "fishing expeditions." Indeed, this off-budget fee was recently raised by HUD by a factor more than fifty percent, to $24.00 per home section. In effect, then, manufacturers have had to foot the bill not only for a regulatory system that has been operated in an arbitrary and exclusionary manner, but also for research designed to find flaws in their products, regardless of whether the consuming public, or even HUD's own inspectors, perceive there to be any problem.

In addition, this section has been used as a basis for awarding research and testing contracts, including some touching upon sensitive consumer perception issues, to organizations controlled by competitors of the manufactured housing industry. This practice not only constitutes a serious conflict of interest, but also seriously undermines the credibility and objectivity of any such research, and places potentially proprietary information in the hands of competitors.

Under the Amendments, the Secretary may continue to conduct research, development, testing and training, but the vehicle-based "accident" language is deleted. In addition, the Amendments include criteria for the expenditure of manufacturer fees. Under the Amendments, research could be financed by such fees only if the Secretary, pursuant to notice and comment rulemaking, finds that "unusual circumstances" exist. Furthermore, the amendments limit to five percent the amount of fee proceeds that can be used to conduct testing to determine general compliance with any Federal Manufacture Home Construction and Safety Standard, and confines other fee-supported testing to that done on a case to case basis to "determine the existence of substantial safety-related or durability problems." As a result, manufacturers will no longer have to pay for shot in the dark "research" and testing that, in actuality, amounts to little more than implicit disparagement of manufactured homes.

6. The Act Should Include Criteria For The Use And Collection of Inspection Fees.

At present, each producer of manufactured homes must pay a fee of $24.00 to obtain an approval label for each home section that it constructs. Such labels, indicating compliance with the HUD Standards, must be affixed to homes before they can be shipped in interstate commerce. Under the Act, these off-budget fees, paid ultimately to HUD, may be used to "offset expenses incurred . . . in conducting . . . inspections" and to "pay expenses incurred in connection with such inspections."

Although the label fee has been increased in successive steps from $19.00 per home to $24.00 per section, HUD has not seen fit to propose such increases through notice and comment rulemaking procedures. Instead, it has enacted regulations which require it to publish notice of increases in the Federal Register, but do not require pre-promulgation consideration of comments by interested parties.

Once again, this issue concerns fundamental fairness and the rule of law. Manufacturers' label fee payments fund the inspection system. It is only reasonable that manufacturers be accorded an opportunity to participate in proceedings affecting the collection or disposition of such funds. Indeed, due process requires no less.

The Amendments address this issue by expressly subjecting the establishment of fee levels to the requirements of the Administrative Procedure Act. This requirement will ensure a full airing of the need for any fee increase, as well as the utilization of incoming funds. In the absence of this type of decree, manufacturers, while paying the bill, have been excluded from participation in the fee-setting process, and have been kept in the dark with respect to the specific utilization of fee proceeds. This state of affairs is obviously improper and should not be permitted to continue.

While the proposed Amendments continue the Secretary's authority to finance inspection, testing and training activities with label funds, those activities are specified by reference to sections 608 and 614.

The purpose of the Amendments to section 620, therefore, is to exert some level of statutory and due process control over the collection and utilization of substantial revenues. Once again, such controls are essential to avoid the arbitrariness that has characterized the regulatory system in the past.

7. Manufactured Home Construction and Safety Standards Should be Construed and Interpreted in Accordance with Procedural Safeguards.

One of the most vexing problems confronting the manufactured housing industry today is the tendency of HUD and its contract agent to construe manufactured home construction and safety standards in one context and then apply that interpretation across-the-board, without ever providing notice and an opportunity for comment. Insofar as violations of the standards carry stiff penalties, and such interpretations frequently increase compliance costs, it is only reasonable that manufacturers be clearly apprised of new interpretations and that they be afforded an opportunity to be heard. Once again, this issue presents a question of basic fairness and compliance with the rule of law. The present system of "off-the-cuff" interpretations places manufacturers at risk of non-compliance with the Act, while simultaneously excluding them from participation in the regulatory process.

The Amendments address this matter at Section 604(j) by requiring the Secretary to issue interpretations pursuant to notice and comment procedures. Clearly, this requirement will strengthen the Act by underscoring the legitimacy of official interpretations while, at the same time, curbing the abuses of the past and subjecting the interpretation process to the rule of law. This change represents a significant step forward, which should be embraced by the Senate.

8. The National Manufactured Home Advisory Council Should not be Excluded From the Regulatory Process.

One of the means by which the public has been excluded from the manufactured housing regulatory process, has been HUD's tendency to totally ignore the National Manufactured Home Advisory Council, established by Section 605 of the Act. Under that Section, HUD is directed to consult "to the extent feasible" with a council composed of eight representatives of consumer groups, eight representatives of government agencies and eight representatives drawn from the manufactured housing industry, prior to "establishing, amending or revoking any standard". Unfortunately, however, the "extent feasible" has proven to be once in the last five years. As a result, the regulatory system has lost the valuable expertise that this group could bring to bear upon the concerns of industry and consumers alike.

Consistent with its support for public participation in the regulatory process, ARR believes that the role of the Advisory Council should be expanded, and that the Secretary should be required to convene the Council. The proposed Amendments accomplish these objectives by instructing the Secretary to convene the Advisory Council "periodically." Certain critics of the Amendments maintain that such expanded responsibilities are merely a guise for subjecting proposed regulations to the veto power of an "industry-dominated" group. This, however, is simply not the case. First, the Advisory Council has no veto power. As its name implies, its function is to "advise". Second, and most important, even though the Amendments would decrease the membership of the Council from 24 to 12, the Council would continue to have an equal number of representatives from industry, government and consumer groups. There is no conceivable way for the manufactured housing industry to dominate such a group.

9. The Current Statement of Purpose is Unjustifiably Negative and Overbroad.

Finally, the Act, in its present form, does not regulate manufactured homes as a form of housing. This is because Congress modeled the Act after the National Traffic and Motor Vehicle Safety Act of 1966 ("Motor Vehicle Act"), rather than a building code or any other statute concerning housing or residential construction practices. Due to this parallel, the current Act enjoins the Secretary to "improve the quality and durability of manufactured homes."

Although the significance of the language contained in the Statement of Purpose, and its derivation from parallel language contained in the Motor Vehicle Act, in terms of the difficulties being faced today by the manufactured housing industry is not necessarily obvious, sixteen years of experience under the Act has shown manufacturers the far-reaching impact of these words--not to be found in any other housing law. In practical effect, the Act vests the Secretary with open-ended, virtually unbridled authority to "improve" a class of structures implicitly presumed to be defective *ab initio*. Although such sweeping authority may have been appropriate for the regulation of automobiles travelling roads at high speeds, housing is an entirely different matter. Congress can search the record. It can review other housing codes and Federal housing laws. In the final analysis, it will see that nothing else even approaches this mandate in terms of breadth and scope. Indeed, no other type of housing in the United States is legislatively presumed to be inferior. For this reason, and this reason alone, the Act should be modified.

Even worse, though, HUD has delegated its expansive powers under the Act, indeed, the full authority of the United States Government, to a contract agent that is charged with overseeing enforcement of the Act, but which is not legally required to act in accordance with fundamental tenets of due process. As a result, the contract agent has issued and enforced pseudo-regulations, such as the AQL system, purporting to give content to the terms "quality" and "durability," all without a single hearing, or opportunity for notice and comment proceedings.[1] These pseudo-regulations have been unilaterally imposed from above by an agent with governmental power, but outside the system of checks and balances mandated by the Due Process Clause of the United States Constitution and the Federal Administrative Procedure Act.

This discrepancy between the contractor's ability to wield power on the one hand, and its limited accountability on the other, creates fertile ground for abuse and overreaching, and this is exactly what has occurred. Manufacturers have been treated in an arrogant and almost dictatorial manner, forced to comply with *de facto* regulations developed without the benefit of any public input. Such abuses, however, are not so much the product of individual idiosyncracies, as they are symptoms of a regulatory system that has failed.

Manufactured housing producers simply seek to be treated as a segment of the housing industry, not as producers of specialty vehicles that could be "unsafe at any speed." Manufactured homes are constructed from exactly the same materials as site-built homes. Accordingly, there is no rational basis for any presumption of inferiority. What this also means is that the rule of law must prevail in all aspects of manufactured housing regulations. Regulators, public and private, need clearly demarcated objectives and authority, and all interested persons need the right, recognized by law, to participate in the formulation of both regulations and regulatory procedures.

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[1] Although HUD itself has conceded that the AQL system exists pursuant to the Act's mandate to "improve the quality and durability of manufactured homes," it has consistently maintained that AQL is not a standard or regulation requiring promulgation through notice and comment rulemaking. *See*, Attachment 5, Memorandum of David C. Nimmer, Director, Office of Manufactured Housing and Regulatory Functions, HSR, dated June 30, 1989. *See also*, Attachment 6, Memorandum of James C. Nistler, Deputy Assistant Secretary for Single Family Housing, dated April 11, 1985 and attachments thereto.

The Amendments approved by the House of Representatives Banking Committee address some of these issues by changing the Act's Statement of Purpose. Under the Amendments, section 602 would be modified to state:

> The Congress recognizes the important role served by manufactured housing in meeting housing needs in the United States. Manufactured homes provide a vital source of affordable housing accessible to all Americans. The Congress declares that the purpose of this title is to ensure the quality and safety of manufactured homes.

This new language is important because it removes the presumption of inferiority contained within the present Statement of Purpose. As such, it represents an improvement in treating manufactured homes as a form of housing.

Conclusion

The Manufactured Home Construction and Safety Standards Act of 1974 has now been in effect for sixteen years. The proceedings before the Subcommittee today and those before the House mark the first comprehensive examination by Congress of the effects of the Act, as well as potential areas of improvement. In a very real sense, these proceedings mark a watershed for the manufactured housing industry and the market that is serves. The concerns held by manufactures are not hypothetical, or based on isolated incidents. They are, rather, the product of sixteen years' experience under the Act.

Manufactured home producers want to serve the housing needs of the American public. They want to be an integral part of the solution to the housing crisis that the United States now faces. But the Act contains material flaws that have resulted in arbitrary regulation, and an overall decline of the industry. This decline, quite simply, cannot continue. The manufactured housing industry, in the absence of legislative reform, will simply cease to exist. Consumers will look to other housing options, sources of investment capital will seek profits elsewhere, and workers will have to seek employment in other positions. Nor is this just "doomsday" talk. An industry, any industry, requires a certain critical mass to maintain its market share and its credibility as a recognized industry. In 1989, the manufactured housing industry produced its smallest number of homes since 1964. More and more manufacturers are closing, and manufactured housing, because of burdensome regulation, has lost its price elasticity. Any objective analysis would show that the industry cannot continue to survive in its present state.

If this decline is to be reversed, the rule of law must be reasserted over the manufactured housing regulatory system. Regulators must have clearly defined objectives and authority, and all interested persons must be afforded the right, recognized by law, to participate in the formulation of standards and regulatory policy. In addition, the Act must be modernized, both to reflect the proper status of manufactured homes as residences, instead vehicles, and to remove obstacles to innovation, such as the requirement of a permanent chassis. Correctly stated, then, the producers of manufactured housing do not seek deregulation, but rather re-regulation, under a regimen designed to result in realistic, uniform enforcement procedures, consistent with the Rule of Law.

The Amendments passed by the House of Representatives Banking Committee achieve some, but not all of the reforms needed to reinvigorate the manufactured housing industry. At the same time, the Amendments retain and strengthen the consumer protection provisions of the 1974 Act. It is significant to note, however, that the vast majority of complaints regarding manufactured home living, concern manufactured home parks and their managers, not construction defects. Manufactured homes are not perfect, but neither is any other form of housing. There is absolutely no reason, given modern manufacturing technology, for manufactured homes to be treated as inherently suspect, and subjected to discriminatory regulation which increases costs and reduces affordability, thereby shrinking the market for such homes.

It has taken sixteen years to come to this juncture. The Amendments passed by the House of Representatives Banking Committee reflect carefully considered approaches to very real problems. As such, they deserve this Subcommittee's careful consideration, and its vote of approval.

ATTACHMENT 1

Association For Regulatory Reform

1331 Pennsylvania Avenue, N.W., Suite 508 • Washington, D.C. 20004 • 202/783-4087

September 5, 1988

The Honorable Alan Cranston Chairman Housing & Urban Affairs Subcommittee United States Senate 535 Dirksen Office Building Washington, D.C. 20510	and	The Honorable Alfonse D'Amato Ranking Minority Member Housing & Urban Affairs Subcommittee United States Senate 535 Dirksen Office Building Washington, D.C. 20510

Re: ARR's Comments on National Affordable Housing Act

Dear Senators Cranston and D'Amato:

We have received a copy of the Staff Concept Paper on the National Affordable Housing Act dated August 12, 1988. We thank you for sending us a copy of this draft and inviting us to provide comments.

It is our sincere belief that you and the staff should be commended for your superb efforts and fair-minded leadership which have propelled your initiative to provide decent and affordable housing for Americans to this stage. It is obvious that the concept is beginning to take hold. In view of the fact that the Association for Regulatory Reform represents producers of manufactured housing, we shall limit our comments to the role that the manufactured housing industry should play in the National Affordable Housing Act. Therefore, we wish to suggest that under the section entitled, "Homeownership Affordability" a new item be added, namely:

* Elevating and utilizing the manufactured housing industry as the only non-government subsidized source of affordable homeownership.

Difficult as it may sound, such a major undertaking can easily be achieved through a few minor revisions of the current law, the "National Manufactured Home Construction and Safety Standards Act of 1974." Please allow me to elaborate.

It is a known fact that serving our country's low and middle income housing needs without substantial and major direct federal subsidies or special tax relief will require a healthy and viable manufactured housing industry. This fact is evident from the strong historical growth of manufactured housing during the fifties through the sixties and early seventies. It was the massive government direct subsidies and special tax breaks for low priced rental and site built housing units in the seventies and eighties that eliminated growth and stagnated the manufactured housing industry.

Much of the pressure from the U.S. Department of Housing and Urban Development (HUD) on our industry has its genesis in the activities of site builders because they foresaw several years ago that without subsidization, direct and indirect, they were not in a position to deliver the housing needed by America at a price a significant portion of the citizenry could afford. Unfortunately for America certain site builders sought to influence HUD to adopt and enforce regulations that would stifle the manufactured housing industry and eliminate the industry as a competitor and alternative source of housing.

It is apparent that the present structure of HUD in relationship to new housing is not working fairly to serve America's housing needs. There exist internal conflicts of interest and individuals working at cross purposes with a resulting discrimination against manufactured housing. This has come about because some people within the agency management structure are regulating both site built and manufactured housing and have a bias against the latter.

We are convinced that the only way order will come out of this chaos and the agency will not be utilized by one sector of the housing to stifle the other to the detriment of the home buyers is to have an Under Secretary for Manufactured Housing at HUD who would respond directly to the Secretary. This Under Secretary should be an individual who does not have a history of inclination or predisposition to site built housing. The manufactured housing industry has no one in HUD that appears to want to fairly and intelligently consider this industry and the contribution it can make to America if it is treated fairly and reasonably.

Therefore, we strongly recommend the establishment within HUD of the Office of Under Secretary for Manufactured Housing and that this position be filled with a fair-minded, competent and unbiased person.

Next, the manufactured housing industry needs urgent relief from the increased enforcement regulation which is slowly chocking it out of existence. The substantial disparity between the level of inspection for site built housing and manufactured housing is not justified. The regulatory requirements of various States as to site built and modular housing require substantial compliance with a code and require that the home not have imminent safety hazard or a substantial defect, defined as rendering the home or part thereof not fit for the purpose sold.

Because the Federal regulatory scheme applicable to manufactured housing requires strict compliance and absolutely no-noncompliance or non-comformance, manufactured housing is in the position of being required by the applicable regulations to build a perfect home which is, in reality, impossible — factory built, site built or otherwise.

Once the law requires an impossibility, it opens up the enforcement area to punitive, discriminatory, and political enforcement, which in the end defeats the very purpose for which the law was adopted. Consequently, the enforcement provisions of the Federal law should be amended so that they are more in accord with the enforcement provisions of the various States' building codes. This would allow the manufactured housing industry, along with the federal enforcement agencies, to concentrate their efforts in providing affordable homes without imminent safety hazard while being fit for the purpose intended. The current enforcement provisions are so overwhelming, time consuming, costly and impossible of compliance that they divert the energies of manufacturers and federal agencies alike from achieving the important and high priority objective of providing safe affordable housing for the American consumer.

Pointedly, while the manufactured housing industry has not demonstrated growth in the past fifteen years, it has provided affordable and non-government subsidized housing for many low and middle income Americans. The industry is ready to continue its substantial growth pattern of the sixties and the early seventies that existed when the government was not providing extreme subsidies (either direct or tax sheltered) for competitive affordable housing. Manufactured housing can serve the growing needs of Americans for affordable housing without federal subsidy if the changes we suggested are instituted. The manufactured housing industry deserves encouragement by the U.S. Congress at this time. The industry can in turn respond by providing Americans with good, decent and affordable housing at prices they can afford.

What we are really concerned with is that the current enforcement provisions are being utilized to limit the contribution by this industry to the national housing needs. Furthermore, actions requested of Congress are usually structured to exclude this industry's participation with the consequent substantial increase of cost to the consumer and attendant negative impact on the federal budget. Otherwise, there is good reason to believe that many people will be priced out of the housing market forever.

Thank you again for inviting us to provide comments, and as usual, we stand ready to assist you in any possible way.

Sincerely,

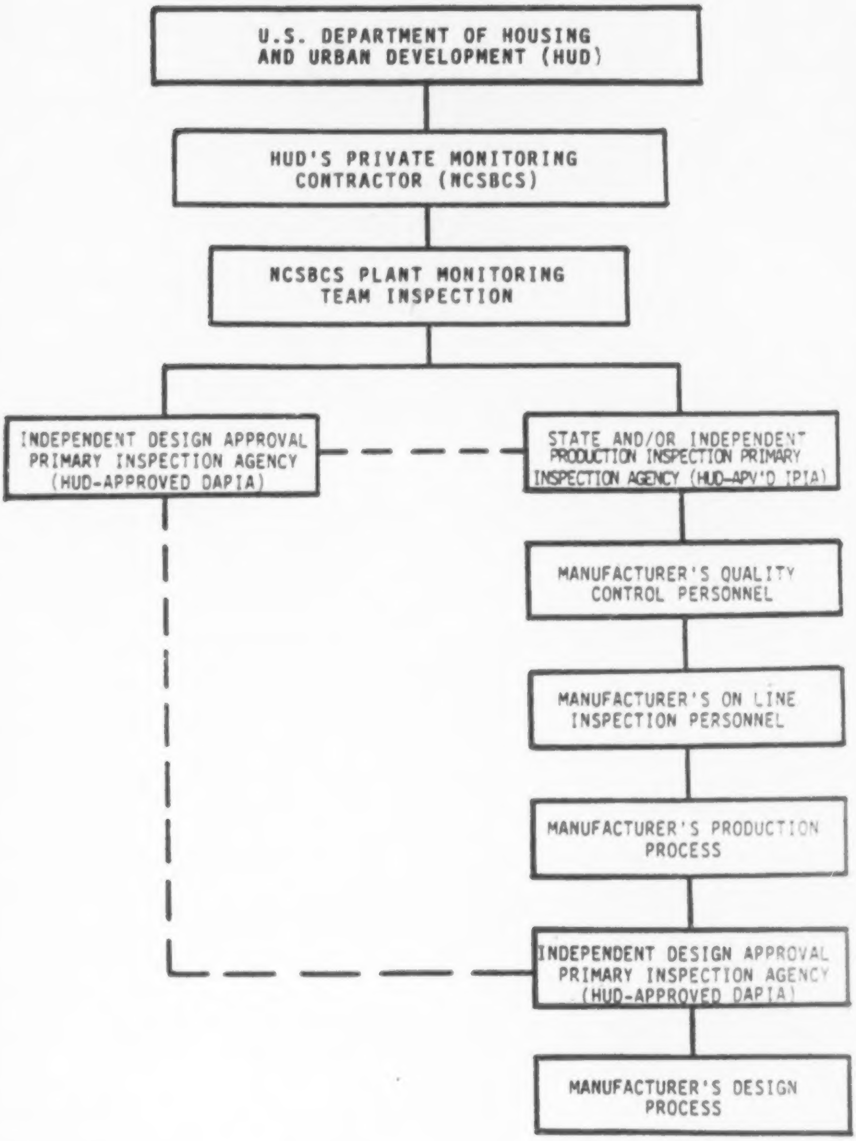
Danny D. Ghorbani
President

DDG/rh

cc: The Honorable George W. Bush
The Honorable Michael S. Dukakis
Members, U.S. Senate, Housing & Urban Affairs Subcommittee
Members, U.S. House of Representatives, Housing & Urban Affairs Subcommittee

ATTACHMENT 2

HUD'S CURRENT MANUFACTURED HOUSING ENFORCEMENT AND MONITORING PROGRAM


U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
HUD'S PRIVATE MONITORING CONTRACTOR (NCSBCS)
NCSBCS PLANT MONITORING TEAM INSPECTION
INDEPENDENT DESIGN APPROVAL PRIMARY INSPECTION AGENCY (HUD-APPROVED DAPIA)
STATE AND/OR INDEPENDENT PRODUCTION INSPECTION PRIMARY INSPECTION AGENCY (HUD-APV'D IPIA)
MANUFACTURER'S QUALITY CONTROL PERSONNEL
MANUFACTURER'S ON LINE INSPECTION PERSONNEL
MANUFACTURER'S PRODUCTION PROCESS
INDEPENDENT DESIGN APPROVAL PRIMARY INSPECTION AGENCY (HUD-APPROVED DAPIA)
MANUFACTURER'S DESIGN PROCESS

ATTACHMENT 3
3.7

NCS BCS National Conference of States on Building Codes and Standards, Inc.
481 Carlisle Drive, Herndon, Virginia 22070 (703) 437-0100

February 19, 1988

FEB [illegible] 1988
STATE [illegible] OFFICE

TO: All PIA Administrators

FROM: Richard St. Onge

SUBJECT: New AQL Item

Due to a number of consumer complaints dealing with the installation of tubs and tub/shower units, HUD has requested NCSBCS monitoring teams to pay particular attention to these items. For the last six months, the NCSBCS teams have been observing a number of noncompliances to the standards and manufacturer's installation instructions. Generally, these noncompliances have been compiled as 1 point items and classified as other nonconformances.

After the recognitions of specific noncomplying areas, HUD has approved the addition of a new AQL item. The new AQL item is AQL #50 and described as follows:

> "Tubs and shower units including their surrounds are installed per the standards and/or the manufacturer's installation instructions so as to be watertight, supported and free of defects."

Enclosed is a copy of the AQL guideline applicable to this new item.

Beginning 45 days from the date of this letter, NCSBCS teams will be noting any noncompliance regarding this new AQL item as an AQL nonconformance and will assign 5 points to each noncompliance. This 45 day period provides time for notifying all PIA headquarters of this change and gives an opportunity to all IPIA inspectors and manufacturer's Q. C. personnel time to assure compliance.

If there are questions, please feel free to contact Jack Pendleton or myself at (703) 437-0100.

Manager, Inspection and Training Services

RSO/pch
Attachment

cc: Robert Fuller

Subpart G
Plumbing System
AOL #50

Tubs and shower units including their surrounds are installed per the standards and/or the manufacturer's installation instructions so as to be water tight, supported and free of defects.

Sub Item No. Reference Weightage	Item Description/Guidelines
50.1 3280.607(b) (3)(1) 5	Shower units and shower/tub units installed per manufacturer's installation instructions (include a copy of the instructions with report)

- -Floor
  - . Smooth, level, flat, solid
  - . Bottom of unit bearing on the floor
  - . Legs installed as needed
  - . Units with front apron support provided and fastened to the floor

- - Walls
  - . Plumb, straight and square
  - . Walls of showers
    - - Supports to prevent inward deflection as required
      - . at mid height
      - . at valves
  - . Walls of shower/tub units
    - - Material used
      - . Impervious to water
      - . Smooth
      - . Joints watertight
        - - Sealed as required

- - Fastening
  - . Correct number of fasteners
  - . Adhesive application
  - . Location
  - . Workmanship

- - Watertightness of flanges
  - . Sealed as required

- - Unit is free from defects at time of installation
  - . Cracks
  - . Dimples
  - . Holes
  - . Weak thin areas

Sub Item No. Reference Weightage	Item Description/Guidelines
50.2 3280.607(c)(4) 5	Adequate support of tub is provided (installed per the manufacturer's installation instructions (include a copy of the instructions with report)

- Support of Tub (front)
  . Front apron support is provided
    - Structural materials used for support
    - Apron ledge bears on support
    - Support does not deflect inward
- Support of tub at wall (perimeter)
  (Must be equivalent to standards)
  . Block under perimeter lip provided
  . Other special support brackets
- Fastening
  . Correct number of fasteners
  . Locations
  . Workmanship
    - Flange not broken or cracked
    - Adequate support provided

ATTACHMENT 4

STATE OF MICHIGAN

JAMES J. BLANCHARD, Governor

DEPARTMENT OF COMMERCE

LARRY L. MEYER, Director

CORPORATION & SECURITIES BUREAU
[illegible] Way
P.O. Box [illegible]
Lansing, Michigan [illegible]

General Information
(517) 334-[illegible]

Enforcement Division
[illegible] (517) 334-[illegible]
Lansing (517) 334-[illegible]
Detroit (313) [illegible]

Mobile Home & Land Resources Division
(517) 334-[illegible]

Securities Division
(517) 334-[illegible]

Corporation Division
P.O. Box [illegible]
Lansing (517) 334-[illegible]
Detroit (313) 256-1970

Records Information Unit
(517) 334-[illegible]

Certification Unit
(517) 334-6311

Document Review Section
(517) 334-[illegible]

Annual Report Section
(517) 334-[illegible]

June 29, 1990

The Honorable Senator Donald Riegle
United States Senate
105 Senate Dirksen Bldg,
Washington, D.C. 20510

Dear Senator Riegle:

The enclosed resolution was adopted by the Michigan Mobile Home Commission in 1986 and reaffirmed at the June 27, 1990, Commission meeting. This resolution relates to removable delivery systems for HUD Code homes, when these homes are placed on private property.

The Commission reaffirmed their support of a removable delivery system and requested that this be forwarded to you to demonstrate the vital interest of Michigan consumers regarding this issue.

The House and Senate Conferees will be meeting very soon on two 1990 house bills. The House version contains a provision for a removable delivery system for HUD Code homes.

The Commission is seeking your support to see that a removable delivery system for HUD Code homes will remain a choice of the consumer. The impact of the denial of the consumers right and freedom of choice with relation to the delivery system could have dramatic effects on the consumer, economically and physically.

Please keep us advised of developments as this issue is of great importance to the Commission.

Sincerely,

Shirley A. Burley

Shirley Burley, Commissioner
Michigan Mobile Home Commission
Michigan Department of Commerce

Enclosure

cc: Congressman Jack Hiler
Congressman Henry Gonzales

RESOLUTION

Commissioner Pilarowski moved that the Commission adopt the following resolution and that it be transmitted to James Mistler, Office of the Deputy Assistant Secretary for Single Family Housing, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C., 20410:

Commissioner Fox seconded the motion.

WHEREAS the Michigan Mobile Home Commission is a government agency composed of consumers, lenders, elected officials, and members of the mobile home industry.

WHEREAS manufactured housing is a safe, affordable, and economically efficient alternative to site built housing.

WHEREAS since 1976 the U.S. Department of Housing and Urban Development (HUD) has administered a construction standard and enforcement procedure to ensure that manufactured housing is constructed in a safe and efficient manner.

WHEREAS since 1976 HUD has allowed the consumer of manufactured housing to determine whether or not they wanted the home constructed on either a steel substructure or a removable delivery system.

WHEREAS such an alternative ensured the consumer in making such a choice that the home will be of safe and economical construction.

WHEREAS the consumer can save a significant amount of money in both the purchase of the home without the home's delivery system and in site preparation particularly when the home will be placed on a basement.

WHEREAS if HUD denies the consumer the legal means of removing the delivery system many consumers will be tempted to alter the delivery system illegally.

WHEREAS such alteration will take the home out of the HUD standard and cause potential economic and physical harm to the consumer.

THEREFORE BE IT RESOLVED by the Michigan Mobile Home Commission that they oppose the proposed action by HUD to require all homes be built on a steel substructure and that they support the current alternative of either a steel substructure or removable delivery system that currently exists.

BE IT FURTHER RESOLVED that such alternatives ensure that the manufacturer will provide instructions for the safe installation and maintenance of manufactured housing and that its structural integrity will be preserved.

BE IT FURTHER RESOLVED that if such alternatives are denied by HUD the consumer will pay more for both the home and its installation and such action will not be in the best interest of the consumer.

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to James Nistler, Senators Carl Levin and Donald Reigle, and the Michigan Congressional Delegation.

Motion carried.

ATTACHMENT 5

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

FFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

JUN 30 1989

MEMORANDUM FOR: IPIA/DAPIA Workshop Participants

FROM: David C. Nimmer, Director
Office of Manufactured Housing and Regulatory Functions, HSR

SUBJECT: Implementation of Revised AQL System

Thank you for spending your valuable time to attend the IPIA/DAPIA Workshop held in Tysons Corner, VA on May 31, June 1 and 2, 1989. We were very successful in covering many technical issues that are extremely important to the manufactured housing industry.

One of our objectives, as stated at the Workshop and as mandated by the 1974 Manufactured Housing Construction and Safety Standards Act, is to improve the quality and durability of manufactured homes. To a large extent, the revised AQL System developed by NCSBCS to monitor the performance of IPIA inspectors does just that. It will help to provide assurance that homes are built to comply with the Federal Standards (24 CFR 3280), by providing uniform guidelines to NCSBCS Audit Teams to assure compliance with the Standards. However, the AQL Guidebook's provisions are not Standards or Regulations, they are a system to measure performance.

Certain provisions of the AQL Guidebook were discussed at great length at the Workshop, and are a change in priorities, emphasis, or forms directed by HUD. Two of these, AQL Item 29 and 30 may require a thorough review of designs by manufacturers and DAPIAs. DAPIAs must continue to review and approve these designs to assure compliance with the Standards. However, we are extending the compliance date for these specific items to be designed and approved to Thanksgiving Day, November 23, 1989. At that time we will direct NCSBCS to concentrate on these issues when reviewing performance of both DAPIAs and IPIAs; as appropriate.

Attached are copies of viewgraphs, shown at the Workshop, concerning transportation testing, analysis, and certifications. These are for information purposes only, and will be discussed at future meetings with DAPIAs. We anticipate that either a valid transportation test protocol or a design methodology will be developed by manufacturers or DAPIAs, to assure compliance with the Standards (24 CFR 3280.903).

Attachments

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

OFFICE OF THE GENERAL COUNSEL

ATTACHMENT 6

APR 11 1985

MEMORANDUM FOR: All Primary Inspection Agencies (IPIAs)
All Home Manufacturers

FROM: James C. Nistler, Deputy Assistant Secretary for Single Family Housing

SUBJECT: Increased Frequency of IPIA Inspections

As you know, the Department has expressed concern about a downward trend recently noted in certain manufacturer performance. If this trend is to be reversed, it is important that IPIAs fulfill their responsibility under the HUD regulations to increase the frequency of production inspections when manufactured homes repeatedly fail to conform to the standards. The regulations, 24 CFR 3282.362(c)(1), state:

> When manufactured homes repeatedly fail to conform to the design, or as appropriate under paragraph (a)(1)(iii) of this section, to the standards in the same assembly station or when there is evidence that the manufacturer is ignoring or not performing under its approved quality assurance manual, the IPIA shall increase the frequency of these inspections until it is satisfied that the manufacturer is performing to its approved quality assurance manual. Failure to perform to the approved manual justifies withholding labels until an adequate level of performance is attained.

To assist the IPIAs' in their compliance with the regulatory requirement, memos were issued on March 4 and 29, 1985 which set forth a schedule for increasing inspections and resolving disputes. However, I have recently been advised by HUD's Office of General Counsel that there is a question as to whether the directives contained in these memos should have been published in the Federal Register. Therefore, so that this concern can be addressed expeditiously the March 4 and 29 memos should be treated by IPIAS as recommendations rather than mandatory requirements.

The Department regularly assesses the adequacy of IPIA performance. The IPIA's judgment as to when and how to increase production surveillance and take other remedial action at plants with inadequate quality control plays an important part in the Department's evaluation of an IPIA's performance. Adherence to the recommendations contained in the March 4 and 29 memos will ensure that this IPIA will receive an acceptable rating with respect to this function. In addition, many PIAs have expressed a need for a uniform enforcement policy. Widespread compliance with these recommendations will satisfy this need.

I cannot overemphasize the importance of PIAs in assuring the production of safe and durable manufactured homes. My staff will be taking a close look at the performance of both manufacturers and their IPIAs and, where necessary, will take enforcement actions to ensure that all aspects of the HUD regulations are followed.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

MAR 29 1985

MEMORANDUM FOR: All Primary Inspection Agencies (IPIAs)
All Home Manufacturers

FROM: James C. Nistler, Deputy Assistant Secretary for Single
Family Housing, HS

James Nistler

SUBJECT: Increased Frequency of IPIA Inspections

Certain questions have been raised about my March 4, 1985 memorandum on increased frequency of inspections. This supplement provides answers to those questions and additional guidance on implementation.

QUESTION #1

When does Increased IPIA Inspection begin?

ANSWER

It begins no later than five (5) production days after the monitoring inspection has occurred.

QUESTION #2

If the manufacturer or the IPIA do not agree with the monitoring inspector's AQL rating, what will determine the frequency of inspections?

ANSWER

The IPIA will determine what the AQL rating will be for purposes of determining frequency of increased inspections. When disputes are resolved, then the frequency of inspection shall be set at the resolved level. (See Question #6 on "Disputes.")

QUESTION #3

How long does Increased IPIA Inspection continue and when does it decrease?

ANSWER

It continues for at least 15 production days. It decreases to the next lower frequency of inspection level when the IPIA is satisfied that the manufacturer has made the required improvements in its quality control program.

The frequency of inspection may be further reduced to the next lower step, every 15 production days, if the IPIA determines that such a reduction is justified, until the "Routine Level" is reached.

QUESTION #4

After the initial 15 production day period, may a plant return to a routine inspection level?

ANSWER

If, in the IPIA's judgment, the manufacturer's quality control has improved to a satisfactory level, the IPIA can request the monitoring contractor to perform another monitoring inspection. This inspection shall be performed within 10 production days after receiving such notice. The manufacturer must achieve a 95 percent AQL in order to reduce to normal IPIA inspection level.

If the manufacturer fails to achieve a 95% AQL rating during the reinspection, the IPIA shall maintain increased frequency of inspection (at the level corresponding to the new AQL score) until the next regularly scheduled monitoring inspection.

QUESTION #5

Regarding the "Acceptable Quality Level" (AQL) system, aren't some items more critical than others: and shouldn't the ratings consider such a difference when evaluating a plant's performance?

ANSWER

The present AQL system shall be used, as is, to evaluate a plant's performance. HUD is sensitive to several comments that different weights should be assigned to more critical AQL items and we plan to closely re-examine the whole rating system in the future. However, at present, the AQL list will be maintained until we have completed our study.

QUESTION #6

How will technical disputes be handled?

ANSWER

Where there is a dispute about a rating the IPIA must inform the monitoring contractor within three (3) days of the monitoring inspection, of the items in contention and the reasons for disagreements. All supportive documentation must be received by the monitoring contractor within this 3 day period.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

MAR - 4 1985

MEMORANDUM FOR: All Primary Inspection Agencies (IPIAs)
All Home Manufacturers

FROM: James C. Nistler, Deputy Assistant Secretary
for Single Family Housing, HS

James Nistler

SUBJECT: Increased Frequency of IPIA Inspections

IPIAs are responsible for assuring their client manufacturers produce homes that comply with DAPIA-approved designs and quality control manuals as well as the Federal Manufactured Home Construction and Safety Standards.

Under the current Acceptable Quality Level (AQL) system, manufacturers must attain an average score of 95 percent or better to be considered adequate. This level was established after meetings with industry representatives and careful evaluation by the Department of experience data which concluded that most plants can achieve an AQL of 95 percent or better.

Recently, there has been a downward trend noted in manufacturer performance. To help reverse this trend, this letter sets forth criteria for increasing the frequency of IPIA inspections in those plants that are not performing at the requisite level.

Effective April 1, 1985, a manufacturing facility receiving an AQL rating below 90 percent during its National Conference of States on Building Codes and Standards, Inc. (NCSBCS) monitoring inspection will be subject to the following schedule:

** Phase-in Date	AQL Rating	Rate of IPIA Inspections of Manufacturer's Plant	Other Procedures
7-1-85	Below 80%	200%	IPIA Recertify Plant in presence of HUD Monitor IPIA Hold Labels IPIA Headquarters visit plant once a month
0-1-85	Between 80% - 84%	175%	IPIA Hold Labels IPIA Headquarters visit plant once every two months
1-1-86	Between 85% - 89%	150%	Manufacturer Hold Labels IPIA Headquarters visit plant once every three months

** Recommended by MHI to HUD

The monitoring contractor will try to resolve all disputes within five (5) days of receiving the IPIA's documentation. Where disputes cannot be resolved, they will be forwarded to HUD for final resolution. The monitoring contractor shall notify the IPIA of the date the dispute was forwarded to HUD. HUD will notify the IPIA of its determination after reviewing the dispute. This determination shall include resolutions of disputes and the final AQL rating. This determination shall be conveyed by phone within 10 days of HUD's receipt of the dispute. A letter confirming the phone call will follow.

QUESTION #7

Referring to the schedule set forth in the March 4, 1985 memorandum, what do the terms 100% through 200% mean?

ANSWER

AQL Rating	Rate of IPIA Inspections	Inspections at Stages (Stations) of Production
Below 80%	200%	Each home is inspected at two stages (stations) during its production.
95% & over	100%	Each home is inspected at one stage (station) during its production. This is the routine level.
Between 80% & 84%	175%	In addition to each home getting a routine level of inspection (100%), another 75%, 50% or 25%, as appropriate, of all homes shall be inspected at an additional stage (station) of production.
Between 85% & 89%	150%	
Between 90% & 94%	125%	

The IPIA has the option to conduct these additional inspections at those stages (stations) where the manufacturer's quality control program is not effective.

If you have any questions relating to either the March 4, 1985 memorandum or to this one, please address these to Mr. Tobias Gottesman, Chief, Compliance Branch, Manufactured Housing and Construction Standards Division, (202) 755-6584.

Manufacturing facilities receiving an AQL rating of 90 percent or more will be subject to the following schedule:

Phase-in Date	AQL Rating	Rate of IPIA Inspections of Manufacturer's Plant	Other Procedures
[redacted]	Between 90% - 94%	125%	Manufacturer Hold Labels IPIA Headquarters visit plant once every six months
[redacted]	Over 94%	100%	Manufacturer Hold Labels IPIA Headquarters visit plant once a year

For purposes of this directive, IPIA's inspection of each home produced in one stage of its production equates to 100 percent IPIA Monitoring of Manufacturer.

By receipt of a copy of this letter, HUD's Monitoring Inspection Agency shall insure compliance with the above requirements and shall advise the Department of any non-compliance.

Senator **Bryan**. Mr. Hussey, we thank you very much for your comments as well.

Let me just start maybe with you, Mr. Hussey, the last point that you made, that there is a different circumstance that may exist because of climate, geology, other local conditions, which, if I understand the thrust of your testimony, would make a uniform Federal installation standard difficult, if not impossible, to design.

Is that really in effect what you are saying?

Mr. **Hussey**. I think difficult. I'm sure it's not impossible to design. But I believe it would be much—

Senator **Bryan**. Impracticable, undesirable—and I'm not trying to put words in your mouth, but you kind of get the flavor of what you're trying to say with respect to that.

Mr. **Hussey**. From the point of view of manufacturers, we believe our homes should be installed in accordance with the installation instructions which we, as manufacturers, are required to give to our dealers with every home.

How you would structure a national installation standard that would be prescriptive of any state installation standards would be very, very difficult in that the home that I build is different. We use a different floor system, we may use different materials in the home than Mr. Shae builds.

And those homes may go to the same areas and we may both ship to up-state New York and we both may ship into Arkansas, but our homes are different and, therefore, may require a different installation standard.

So, for Congress or for any Federal agency to come up with an all-encompassing preemptive Federal installation kind of thing, I think, would be very difficult and probably impractical.

If a national uniform installation standard were established, a new expensive bureaucracy would have to be created to administer the standard. HUD does not have the personnel to administer the Manufactured Home inspection system now. HUD has to rely on a $3 million contractor. If a national installation standard is created, we could expect another such contract to be created all at the expense of the American consumer. Allowing the states to develop their own installation standards is a much more practical, workable solution.

Senator **Bryan**. Assuming without acceding that it would be very difficult, there are some States that do not have a State installation standard.

Is that not correct?

Mr. **Hussey**. I believe that's correct, yes.

Senator **Bryan**. You correctly point out that Nevada does and Mr. Mix believes it's an excellent one. I've always been led to believe it's a pretty good one, too.

Would there be anything wrong with the Congress mandating that, indeed, States must adopt installation standards that meet certain criteria, recognizing that there would be perhaps some differences between the State approaches that would be taken?

Wouldn't that be helpful from the standpoint of the ultimate consumer, the folks that you sell your fine products to?

Mr. **Hussey**. I'm sure it would if that was possible.

Senator **Bryan**. But, I'm asking you, is that not desirable? I'm not an expert on this, but you express and profess an interest and concern in the consumers. You folks have been in business for a long time. It's not my purpose here to malign your manufacturing representatives.

But, I mean, if we are truly interested in the consumer, wouldn't that be a helpful thing?

Mr. **Hussey**. It would be helpful if—if—if it was helpful, yes, it would be very beneficial.

Senator **Bryan**. But, I'm asking you, would it be helpful? I'm asking would it be helpful?

I mean, Mr. Connors?

Mr. **Connors**. Well, we at the Manufactured Housing Institute have been working with the National Conference on States' Building Codes and Standards, NCSBCS, over a period of time, in an effort to do just what you said, to have all States adopt adequate installation standards.

And we recently put together an installation task force at MHI working with segments of the industry to aid that process. So, we recognize that installation has been an ongoing problem with the homes and think that effective State installation standards with effective enforcement techniques would be helpful.

Senator **Bryan**. It would seem to me, Mr. Connors, if that is your response—and I have no reason to question that you've been working on the issue—what's wrong then from the consumer point of view of saying:

Look, within the next 18 months or 2 years or some period, the Federal Government is going to mandate States to have installation standards?

Again, I want to accept what you're saying, that you have these concerns. And I don't understand why the reluctance. I'm conceding for the point of argument Mr Hussey's point that there may be differences in different States.

But, I notice a real reluctance on the part, at least as I'm hearing your part, to mandate that there be an installation standard, something that's devised at the State level but what meets certain minimum threshold Federal standards.

Is that repugnant?

Mr. **Connors**. I did not intend to indicate reluctance. Mr. Hussey is absolutely correct that there are State and regional differences in soil types and things like that, which need to be taken into consideration.

Senator **Bryan**. I understand that.

Mr. **Connors**. But, our membership at MHI has given the staff clear instructions to try to work toward those kinds of State installation standards.

And to further respond to your question of whether the Congress should mandate, to the extent that it does not in some way impinge on the effort, I think it would be very good. I say impinge on the effort because I think all of us are aware that sometimes, when the Federal Government hangs over a State government, there has been some reticence on the State government to reply in that way.

But I think it would be a positive step forward.

Senator **Bryan**. No, I'm not one to suggest that State regulation is less worthy of consideration than Federal regulation, but what I do say is that, if there is a failure to act, sometimes the Federal Government does become involved because of the absence and, as manufacturers, I can't see why you all would object to the promulgation of standards in each of the States, which, in effect, make sure that the product you manufacture is correctly installed.

I mean.

Mr. **Hussey**. I don't think we do.

[Simultaneous voices.]

Mr. **Hussey**. I don't want to leave you with that impression.

Senator **Bryan**. And, obviously, words are less effective than deeds and, hopefully, you folks will work together to make sure that, indeed, those standards come about.

I'm suggesting that perhaps the Federal Government may have to encourage people to do the responsible thing in that. But I don't mean to——

Mr. **Connors**. Our membership has asked us to take a lead role. They have become impatient with the pace of State adoption standards. So I would like to clarify that.

Senator **Bryan**. I am pleased to hear that, Mr. Connors. I think you folks can play an effective role in making sure that the standards—and I think that you would have enhanced credibility with those who live in mobile homes, the consumer groups, the State regulators and others who testified, who frankly—and I don't profess expertise in there—reach different conclusions than the three of you do with respect to some of the provisions.

Let me talk, Mr. Connors, with you for a moment if I may. You make a point that it is hard to argue against in principle.

These mobile homes, really, by and large today, are not mobile homes in the sense that you hook them up for the weekend and drive them here and drive them there. And at the end of the week, you return them to the site where they remain through the week and people left.

That is not the reality. To site a mobile home today is a very, very expensive thing, as you well know, involving several thousands of dollars.

So I would accede about the mobility that there may not be the same validity. You say they are more like site constructed homes. If that is true, then it seems to me that one is left with the inescapable conclusion that there are some things that maybe ought to be considered, if that is the objective. A site constructed home has a system inspection after the frame and after the electrical and after the plumbing to make sure that each of those systems that is ultimately incorporated into the finished product meets whatever the local building code.

And that is done by an independent inspector, someone who is hired by the State and, in most instances, it would be the local government, country, municipal officials.

If I understand the system here, and Mr. Hussey, maybe you can enlighten me if I failed to understand your testimony, in effect, with respect to manufactured housing, we have a system in which the mobile home may only be inspected once at various stages of the inspection, and that, indeed, the law permits the manufacturer—although 8 States have established their own system. But, the law permits the manufacturer to, in effect, hire its own inspector.

That strikes me as being so dissimilar from site construction that one wonders whether, indeed, the consumer ultimately benefits from that.

And let me give you an opportunity to respond to any misconceptions I have about that.

Mr. Hussey, or Mr. Connors, Mr. Mix?

Mr. **Connors**. Let me comment for a moment and then turn it over to Ed. I think it is unfortunate that that system that you described throughout the negotiations with HUD and the rest of these important parts of the industry has taken probably an unfair beating.

It sounds, frankly, Senator Bryan, as you describe it, a little different than it really works, than it really is.

There is a process through which the manufacturer submits it's plans to a design approval agency. And 10 percent, 10- 15 percent, as much as 20 percent, of these design approvals after they are approved by professional engineers, are reviewed by HUD's contractor, NCSBCS.

Senator **Bryan**. Let me stop you there. Let me assume that to be true. Because you seek to analogize the manufacturer of the home to the site home, that would be akin to sending the plans down to the building department and saying: Look, the plans are approved. They meet the code. But, that means on paper before anything is actually done in terms of footings or anything like that.

Would that be a fair analogy, do you think, Mr. Connors?

Mr. **Connors**. Yes, it is. That's the first stage in the process.

Senator **Bryan**. Who approves those plans, if I might ask?

Mr. **Connors**. The design approval agency. DAPIA. Then, NCSBCS reviews somewhere in the range of 20 percent of the design approvals receives from the DAPIA.

Senator **Bryan**. Can you back me up? Who makes the design approvals initially before the HUD contractor gets involved and reviews 20 percent of them?

Mr. **Connors**. The manufacturer's design approval agent, who is a certified engineer, professional engineer.

Senator **Bryan**. Who hires that individual, that outfit or that company?

Mr. **Connors**. I believe there is one State where the State is the DAPIA. I believe it is Nebraska. But, other than that, the manufacturer hires the DAPIA.

Senator **Bryan**. Without impugning anybody's integrity, it is not an independent inspection in the sense of the hiring of that party, at least with the exception of Nebraska, is done by the manufacturer itself?

Mr. **Connors**. Yes, it is done by the manufacturer himself.

Senator **Bryan**. Then, HUD makes an overall inspection of 20 percent.

Mr. **Connors**. Correct.

Senator **Bryan**. And that is the kind of spot check to see if, indeed, the contractor is doing the kind of job they're supposed to do. And then you—Mr. Hussey, if I'm getting off track here, would you barge in? But, I'm trying to put you in the context that you want to be treated as builders of homes. And you are builders of homes, but there are some significant differences.

And it seems to me that you can't have it both ways. You can't say, Hey, we're no longer involved strictly as vehicles upon which housing is mounted, but we don't want to be treated as others. We've got to come down and make a determination:

Are we fish or fowl?

Mr. **Hussey**. The way you are characterizing the DAPIA process is just a little bit misleading.

Senator **Bryan**. And I don't want to do that.

Mr. **Hussey**. We don't go out and hire a DAPIA by starting in the yellow pages and looking under D. There are six HUD-certified—I think there are six HUD-certified entities from which we can choose our DAPIA.

Those entities are, we believe, very independent. They are agents of the Department of Housing and Urban Development. Yes, we select the one that we are going to deal with. Yes, we pay them directly rather than running the money through HUD.

Senator **Bryan**. Let me stop you there and I will give you plenty of time to respond.

Would you not concede that that gives the appearance—I am not impugning the integrity of your organization. But, would you not concede that that would be a little bit like, you know, the builder of a site home saying, look, I want that inspector in the building department, only that fellow, to come out and do my job.

Doesn't it give the impression, even if, in fact, it is a bona fide inspection process?

Mr. **Hussey**. It does not to me at all. First of all, my IPIA is NTA. That is an organization. They have I don't know how many inspectors, probably 20 or 30 around the country. And they may switch their inspectors around from time to time in our plants.

I don't prescribe who the inspector is going to be. I don't prescribe what he can look at. I don't prescribe when he is going to be there. He comes in to make sure that our quality control system is operational. He is certified by HUD on an annual basis to make sure that HUD is comfortable with that individual organization performing the function as a HUD agent in our plant.

That is a long way from the kind of conflict of interest or influence position that we have been in, that you are asking me to concede that this looks like.

I don't think it looks like that at all.

Senator **Bryan**. It is different than the independent kind of plan that you would get in a county building department.

Mr. **Hussey**. There you will go down and see the same guy every time. Build 100 houses, you would see the same individual. He is selected and employed by the city or the county. And he may not be certified in any manner or fashion. He may not be nearly as qualified as the people that we are dealing with.

Senator **Bryan**. Is it not true that with respect to the individuals that the DAPIA, that if there is no certification as to his or her qualifications?

Mr. **Hussey**. Well, no. The organization is, yes, is qualified.

Senator **Bryan**. But not the individual?

Mr. **Hussey**. That's correct.

Senator BRYAN. Mr. Connors or Mr. Mix?

Mr. CONNORS. I wanted to point out, Senator, that I think, in order to focus on this in the appropriate way, it is important to look at the entire system from the submission of the plans by the manufacturer to the DAPIA, through the entire construction process.

And I believe that, if you look at it in that way all the way through, you will see that at every point HUD or its contractor has some sort of enforcement mechanism to be able to review on an ongoing basis every step of this process.

And I think the conflict of interest that seems to some people so readily apparent in the beginning begins to fade away if you see this overall review that HUD and its contractor have.

Senator BRYAN. Tell me a little bit about that. I thought I understood from some of the previous testimony, and it may be inaccurate and that is the reason why we have hearings and try to get both points of view in building a record.

I was under the impression that not the design phase but the actual construction phase, that the only requirement is that, at one point, that mobile home moving down the assembly line, that only one inspection is required.

That it is not an individual systems inspection and that that inspection, depending upon the size of the plant, may occur at various stages through the construction of the mobile home.

And maybe that is not correct. And let me give you the chance to correct the record if that is a misperception or an inaccurate understanding on my part.

Mr. CONNORS. I think the step that is missing or the procedure that is missing there is, as Mr. Hussey so accurately pointed out a few moments ago, the role of the quality control inspector, the quality control man in the plant, the manufacture's employee who must respond to the in plant inspector, the IPIA.

I will give you another acronym now. That whole process once the plans are approved and the home construction begins, there is an inter-relationship between the quality control program in a plant and the IPIA. And, ultimately, HUD's monitor, again, NCSBCS, which working through an entire system I think provides high assurance that these homes will be built correctly.

Senator BRYAN. I'm not trying to be contentious, but I think that you would concede that is a vastly different system than is involved in site construction.

Mr. HUSSEY. Yes.

Let me expand briefly on that point. The inspection systems are different because the construction methods are significantly different. In the case of a site built home, the home is generally built in accordance with the custom design wishes of the purchaser. The homes are built largely from scratch, that is from raw materials on the specific home site. In the case of manfactured homes, construction is in accordance with pre-approved plans and a specific model may be built hundreds or even thousands of times without significant variations, much like other assembly-line built products. The homes are also built in the factory under controlled climate circumstances where the homes can be observed by management and quality control personnel during their entire construction.

Senator Bryan. From your point of view, you might argue it is better, but it is vastly different and the roles of the parties are somewhat different. Maybe you would argue that it is better, and I'm not here to debate you.

I'm just trying to say it is a very different system.

Mr. Hussey. Yes, a much more thorough system.

Mr. Connors. I would agree with what Ed says. It is much more thorough. From State to State and region to region, I would suggest that ours is more consistent than the stick-built process.

I would also point out that HUD within the last year or so took action against an IPIA and a DAPIA, the same firm, and was able to disqualify them from this program.

So there is that kind of enforcement hammer.

Senator Bryan. Tell me the monitor. I take it, the monitor is the person or agency or organization that goes through and looks at these mobile homes as they are going through the manufacturing process and makes that one inspection or monitoring in the construction phase.

Mr. Hussey. No, sir.

Mr. Connors. That is the IPIA.

Mr. Hussey. The IPIA is the one that would go and has to make an inspection of each home and in one stage of construction to ensure that the manufacturer's quality control system is working.

Senator Bryan. What do we call that person again?

Mr. Hussey. The IPIA.

Senator Bryan. Tell me how the IPIA is selected?

Mr. Hussey. The individual inspection agency we have been talking about that is selected by the manufacturer from a pool of the six, including, I might add, underwriters laboratory.

We might bring out the fact that they are an approved IPIA and DAPIA.

Senator Bryan. You select from an approved list that HUD gives you?

Mr. Hussey. Correct. The monitoring agent is currently—is a HUD contract agent that is currently NCSBCS. NCSBCS will come at least once a year, I believe, under the new law and more often, if necessary, to be sure that the IPIA is doing its job, ensuring that the manufacturer is doing his job.

Senator Bryan. This is helpful and you are building an important part of the record, which is important for this record.

Mr. Mix.

Mr. Mix. As a non-manufacturer and someone who is closer to what happens at the local site, I think that you have made several conclusions which I do not find true necessarily in our States.

As you know, sir, I represent not only the State of Nevada, but I am also the executive director in Mr. Reville's State of Arizona, and Idaho and Utah.

Idaho is an example. There is no State building code; 120 communities and counties in Idaho do not have a code. There is no inspection of any site-built product built in those areas. None. So, our product is far superior in inspection than any of those.

Senator Bryan. I think that is true in Nevada.

Mr. **Mix**. But there are many States that do not have State building codes. Rural areas particularly do not have an inspection program.

Senator **Bryan**. That is true.

Mr. **Mix**. Site inspectors on site-built housing do not necessarily do an outstanding job. We have been told many, many times that if they see anyone other than come out and put a tag on it, it is a rarity.

Particularly in the northern areas where weather is a factor, like in Reno as an example, if you are building a site-built house in the fall and you do not get the roof on before the first snow flies, that good lumber can suddenly turn to very bad lumber and there is not a building inspector in the world that is ever going to say anything to anybody about the fact that that house has been built with wet lumber and has been sealed up with that.

The other thing, you talked about plans being inspected. It is our contention and our experience that if you take a set of plans for a home with a licensed engineer's stamp on those plans into the local building authority, they will accept that because it is stamped by a licensed engineer. They do not examine those plans. There may be rare cases, but in the majority of cases they will take a licensed engineer's word that it is properly done.

So a licensed engineer is preparing these plans and it is really no different. In fact, I would guess that if HUD is checking 20 percent of those plan approvals, that is probably a greater percentage that are being checked at the local level just because of the shear magnitude that goes on.

Senator **Bryan**. Would you concede, Mr. Mix—and you do make a very good point that there are some communities that do not have, as far as site construction, the kind of inspection process that I described; that, to be fair, is absolutely true—but would you not agree that the profitability of getting a better-quality site-constructed home is better in a community in which there are those inspection procedures, even though maybe each of the inspectors involved may not be a ball of fire, to paraphrase what you are suggesting?

Mr. **Mix**. Better than a manufactured home?

Senator **Bryan**. No, no, no. Better than a community in which there is——

Mr. **Mix**. The more rural you get in our Western part of the country, the inspection system is almost nonexistent.

Mr. **Connors**. Senator Bryan——

Senator **Bryan**. Yes.

Mr. **Connors**. My colleague has just handed me a copy of the Manufactured Home Procedural and Enforcement Regulations, CFR 3282 section 362. Just by way of clarification?

Senator **Bryan**. Sure.

Mr. **Connors**. I should add that there is language in there that says: "In the course of each visit, the IPIA shall make a complete inspection of every phase of production and of every visible part of every manufactured home which is at each stage of production."

So rather than him viewing it as he is only looking at one home in one stage of production, he is making an entire examination of the plant and will see different homes in different stages of production. In that way, he is able to get a good idea of whether or not the quality control process set up by this plant and approved by HUD and its contractor is effective at this time.

Senator **Bryan**. I understand that, and you make that point. But the point is that, with respect to any one home, it is inspected only once at some part of that phase of construction by the IPIA.

Mr. **Connors**. By the IPIA.

Senator **Bryan**. Yes.

Mr. **Connors**. The quality control function is more extensive than that.

Senator **Bryan**. That is done by the company in-house, and I understand that. If I misstated that, Mr. Hussey, please correct me.

Mr. **Hussey**. That is correct, but remember that the system itself has to be approved by HUD's agent.

Senator **Bryan**. I do understand that.

Let me talk about the chassis for a moment and we will let everybody get out of here for lunch, but since I have got some experts here we want to build a record.

You make an argument that the chassis is obsolete, you really do not need it. I think, Mr. Connors, you said that it is really not necessary in terms of protecting the integrity of the structure either in transit or in construction. And again members of Congress, unless they have some experience in the industry, are not expert in this area.

On the other hand, and without in any way denigrating him, Mr. Freeland expressed some real concerns. He is a mobile home owner, one of our potential customers. Mr. Wehrman I think also indicated he was a mobile home owner. This would, I think you would have to concede—is a substantial change to eliminate this requirement, maybe for the reasons why you suggest it is a good change, but we really do not have much of a record before us as members of the Congress to make that change in the sense that we have you all saying that it is a good change, and we have the consumers who say look, we are a little uncertain about it.

Is that a prudent thing for the Congress to do to make that kind of change without a hearing to address in some detail whether that is necessary? And if it is not, then maybe we should, as you are arguing, get rid of it.

Mr. **Hussey**. It is not a very complicated matter, Senator. We are not asking to eliminate a permanent chassis under the vast majority of the houses that we build. The houses that Mr. Freeland and Mr. Wehrman live in are sited—Len, correct me if I am wrong—are sited in land-lease parks, and they may at some time in the future be moved. Any home that would be purchased by someone who is going to live in a land-lease park, or at some time in the future thought he might want to move the home, it can be purchased with a permanent chassis.

What we are asking for is the ability to build a house that is going to go on a basement on a permanent foundation that is going to be combined with the land. A loan is going to be extended by a finance company on a 30-year mortgage basis. There is no reason to have the metal frame underneath that home stay underneath that home. It is expensive for the consumer. It requires us, if we are going to build a basement—us, the developer, or the consumer—if he is going to build a basement under the home, to build it two feet deeper to get the proper head clearance. It will never be moved again.

So all we are asking for is the ability to build a house without the metal frame—not every house; to just make that option available to our purchasers.

Senator **Bryan**. And Mr. Hussey, that sounds very reasonable. I mean, not everybody needs it. I understand what you are saying. And if that is true, then why can you not deal with the modular housing code in a given State? In other words, if it does not have a chassis, then it does not fall within the purview of the manufactured housing code. Am I correct on that? Would that not be the consequence of not having a chassis under it, under present law right now?

Mr. **Hussey**. Under present law, if it did not have a chassis under it it would not be a code home.

Senator **Bryan**. You would be totally allowed, and then you would be under the State regulation.

Mr. **Hussey**. No, sir, we would not qualify under any of those modular codes that I know of. We would have to build the house to one of those codes. We would have to be certified as an approved builder by that State's housing commission or State building commission to build as an approved builder for, say in Ohio, a modular code house. Then we could construct that house to the Ohio modular code, and then it would be sold in Ohio as a modular home.

If we built a house without a permanent chassis on it now to the HUD code, I do not think it would qualify for anything.

Senator **Bryan**. Well, it certainly may not qualify under the modular law. I can understand that.

Yes, Mr. Connors.

Mr. **Connors**. Senator, it is an artificial distinction, actually, and an unnecessary one. In 1974 when the original law was passed, this process was not envisioned at that point in time, thus, the language that is in the current law about a permanent chassis.

Also as a part of the law, HUD through the law and in its regulations had envisioned something called "alternative construction letters." So in the mid-1970's after the HUD code came into effect, several manufacturers began to try to, through this alternative construction process technique, begin to build these kinds of homes. And ultimately, DAPIA's design approval agents began to approve these homes not only through alternative construction letters but through the normal process—once again, the DAPIA having assured himself and HUD's contractor having assured themselves that the necessary steps had been taken in terms of the superstructure of the home to withstand transportation and also the forces that would be rendered onto the home at the site.

So there is a record—not a record before the Congress, certainly—but there is a record in HUD of the process that has been ongoing for a period of probably 12 to 13 years of removing the chassis. It was only through a restatement of an interpretation in 1986, I believe, that HUD began to curtail this process.

Senator **Bryan**. Well you can see why some of the State regulatory agencies are a bit concerned, because if this were approved as you have proposed it in the Congress, I mean out there in the field as little expertise as maybe members of the Congress have in this area, there is perhaps the general public, unless they have had prior experience they have even less, there is the potential for real confusion.

You have got a modular home here. Now that you have got this new category that you indicate you would like to build for the reasons that you do, that clearly will not appear to the consumer to be a mobile home, who tends to associate a mobile home with something that has got wheels on it whether that is historically obsolete or an antiquated notion, nevertheless that is the frame of mind that comes down to us, so in effect the difference between a modular home which complies with local and state building codes in some 36 States I think we are told, will not reach this new category of manufactured homes that you want to build without a chassis. So there is at least some concern out there among the States about this process.

Mr. CONNORS. I think that confusion argument is unnecessary. As Congressman Hiler pointed out, our homes, the homes even with the chassis removed, will continue to bear the red label of a HUD-code home. I must respectfully submit that I believe, as I said earlier, this is more of a competition issue than it is a confusion issue.

Senator BRYAN. Why do you not lay that out on the record, Mr. Connors, because we want to get all the facts that we can. You say it is a competition issue? It is a competition issue between whom?

Mr. CONNORS. Between the HUD-code manufacturers who are building this type of product——

Senator BRYAN. I see.

Mr. CONNORS. And the modular manufacturers who would just as soon not see them build that product.

There is a presumption that has been laid out in various testimony and answers that the HUD code is an inadequate code. I think all of us sitting here before you right now would suggest that that is an inaccurate feeling.

Senator BRYAN. Let me ask this, Mr. Connors. One of the witnesses indicated that they had some negotiations with the industry, and that—I think the name was the Joint Council on Manufactured Housing—they proposed several recommendations to make some changes in current programs, and essentially there was some real progress being made with the industry, but then when there was a recommendation that Congress have oversight hearings on the Federal Manufactured Housing Programs, there was a real reluctance to do that.

And if the system is working as well as you describe it, and perhaps it is—I am not being judgmental or pejorative—what is the objection to that?

Mr. CONNORS. Well, I think I would need to clarify the background on the State-Industry Joint Council. In 1987 in October representatives of NCSBCS, representatives of NCSBCS's Task Force on Manufactured Housing—I may not be totally correct on that title, but there was a task force on manufactured housing——

Senator BRYAN. It is close enough, Mr. Connors.

Mr. CONNORS [continuing]. That Ms. Bowman and then Mr. Reville chaired.

In 1987 they came to our annual meeting in Tucson, Arizona, the MHI's annual meeting, and suggested that it would be fruitful for the parties involved in this, the State representatives and the industry, to sit at a table on an ongoing basis and try to formulate suggestions for revisions to the regulations.

Somewhere in the range of five to six meetings over the next couple of years were held of the State-Industry Joint Council, and we ultimately submitted over shared letterhead some recommendations to HUD that were largely ignored. We received a letter——

Senator **Bryan**. By HUD?

Mr. **Connors**. By HUD. We received a letter in, I am going to say January of 1989 just before the administrations changed from a highly placed HUD official that essentially said, good job, boys, we will think about these things.

Senator **Bryan**. I do not doubt your testimony in that regard in any way, Mr. Connors. I can fully believe it. They were passing out too many deals to be listening to constructive comments made by you and other consumer groups, so I can accept that. [Laughter.]

Mr. **Connors**. That process did not exactly end at that point, but certainly a little bit of the life was taken out of it by that response by HUD.

Senator **Bryan**. I can understand that.

Mr. **Connors**. And as Mr. Hiler also points out, in the summer of last year ARR, MHI, the States and various other people began to negotiate about these changes that are before the Congress right now, and were making I believe significant progress, until HUD backed away in February or March of this year.

So I would like to suggest that the industry has not walked away from these negotiations in any way.

Mr. **Bryan**. Well let me encourage you, Mr. Connors, you and others who represent the industry. You ought to make your displeasure with HUD known and be critical, if indeed they left you stranded high and dry. That enhances your credibility, if indeed that is the factual scenario that occurred, and obviously the Congress needs to be aware of that because some of us would like to visit with HUD on that issue. If you are working hard together on some kind of a thing, you have a consensus on some points, and then HUD abandons the process, I understand how that creates a lack of momentum.

Mr. **Connors**. It was particularly disappointing, Senator Bryan, because HUD under Jack Kemp had been much more receptive to the industry and we felt like we would be able to arrive at some regulatory changes. We always felt like there would be a need for statutory change, also, but we could make some progress on regulatory change.

Senator **Bryan**. Sure.

Mr. **Connors**. So, as Mr. Hiler pointed out, the allegation or the reason that HUD stopped them, that we were violating some sort of APR regulation, was extremely disappointing at that point.

Senator **Bryan**. Let me now focus on just a couple of quick points, and then we need to move on, as do I.

The warranty issue. Now you are kind of describing this thing as the greatest thing since sliced bread, and you point out that there are a number of States that have no warranties at all. I am sure that is true. I do not challenge that.

But the consumer groups here and others are saying that this thing is largely illusory and may be confusing. There is a provision, as I recall, and correct me if I misstate it, that prohibits the Secretary from defining what is in that warranty. So you could warrant the doors that go in and out of the bedrooms, but not—to be a bit absurd here— but not the front doors. That would be a warranty that would be limited only to that, which I think you would concede under that rather preposterous situation would not be much of a warranty.

What real protection is there that this warranty has something of substance to is, recognizing that the number of responsible manufacturers and the consumer groups pointed this out, offer some excellent warranties today. So this is not, again, a blanket indictment of the industry and is not intended to malign a particular manufacturer. But I must say, as one who has practiced a little law, a warranty without any description as to its scope or comprehensive nature does not strike me as being much of a deal. Some folks are probably going to live up to it and do a very good job, as they do without the law, but I am not sure what additional protection it provides.

Give me your response to those concerns.

Mr. CONNORS. Well, Senator Bryan, it was never the intention of the industry to have something out there that would be so unspecific that you could drive a truck through the loophole.

Senator BRYAN. But would you not concede that that really could be done?

Mr. CONNORS. I would concede that the language that sits there right now is probably incomplete and needs to be perfected in some way. How that perfection should take place, I do not know. I found it personally offensive earlier when the warranty provision was categorized as a ruse, because having participated fully in all of the negotiations with HUD and the states and the Congress, it was a sincere attempt on the part of the manufacturers as I mentioned earlier to balance section 615 on notification and correction of defects, and give the consumers something tangible on a day-to-day basis that would not take months and years of Government intervention before some notification and/or correction would be justified.

Senator BRYAN. Let me assure you my question goes not to motive but to effect.

Mr. CONNORS. I understand that, Senator, but I felt that I should be on the record with respect to that comment.

Senator BRYAN. Sure. I appreciate that.

Finally, let me get to the notification provision. Every one on the previous panel, either in prepared comments or in oral testimony, expressed grave concerns and, from their perspective, the protections accorded the consumer is greatly diminished as a result of the changes that are proposed to be made with respect to the notification, and those circumstances under which the manufacturer is obligated to make repair.

I must say that our own staff evaluation reaches a similar conclusion, that it is a diminution of the protection accorded the consumer. Now without getting into motive, if indeed that is an assessment made by those who are going to be buying and living in mobile homes, those who are ostensibly involved in protecting consumer interests—and they may not always be right; I will concede that point—if that is the evaluation we have from our own staff, I must say that cuts the persuasive force of your argument.

Casting aside for the moment what the intent or the motivation may or may not have been, if that is the effect of it, it does not to me make the strongest argument that your concern is to really provide additional protection to the consumer. It does at least raise a question of why are these changes being made when again the preponderance of what appears to be the evaluation from those who are not involved in the manufacturing is that it is a reduction of the protection.

Mr. CONNORS. There is no question that there is some reduction of protection from the current law, from the current section 615 on notification and correction of defects, but as I said in my testimony, what we were trying to do is balance the remedies that the consumer had.

We felt, in going through the existing law, that the notification requirement of defects—the old law required that if HUD determined there were defects in a class of homes, that there would be notification of the defect to that class of homes—"notification." No correction.

Notification and correction were only done on "imminent safety hazards," and then on "serious defects" as defined in the regulations.

Senator BRYAN. And does that not get us into the area at least of some differences of opinion of whether those two requirements are read in the disjunctive or the conjunctive, and that HUD has taken the narrower view that they are conjunctive? That is, that both conditions must exist before the repair obligation attaches?

Mr. CONNORS. Both "imminent safety hazards" and "serious defects"?

Senator BRYAN. Yes.

Mr. CONNORS. Well I do not think so, Senator. I do not think so. I think that a serious defect and an imminent safety hazard have been combined under the Hiler amendments to call them a "safety hazard" so that——

Senator BRYAN. No; what I am saying is that under the existing law—under the existing law——

Mr. CONNORS. Oh. I see.

Senator BRYAN [continuing]. As I understand it, the two conditions that require notice, there is no punctuation to suggest whether there is a disjunctive reading or a conjunctive reading. Clearly the mobile home owners and consumers prefer the disjunctive. That is, if either of the two conditions exist, then certain obligations attach. HUD has taken the more narrow interpretation. That is, both conditions must exist before there is an obligation to do certain things on the part of the manufacturer.

My point is that the new provisions that you are recommending seem to even reduce the protections accorded to the consumer even under the more narrow interpretation that HUD gives the existing law.

Mr. **Connors**. I misunderstood your question originally. You are correct about the——

Senator **Bryan**. I may have misspoken.

Mr. **Connors** [continuing]. Current law situation, but I do not believe that the Hiler amendments as they stand now provide any further diminution in the area of safety hazards. The only place that they provide a diminution is on the issue of notification on defects.

As I said earlier, what we tried to do was balance that diminution by the provision of this mandatory warranty.

Senator **Bryan**. Let me ask you. You are obviously trying to appeal to consumers. I think your testimony, perhaps, Mr. Hussey, was that—I believe it was yours—indicated that overall sales have not been as strong as they have been in previous years, or perhaps the hope and expectation that manufactured housing would play a larger role in providing affordable housing is not as great as one would have hoped.

If that is true, it strikes me that good will—you all spend millions and millions of dollars to generate good will in terms of your advertising, the brochures that you do, the sales promotion efforts—if the impact of these changes is to create among those that you are targeted to sell to that, hey, the manufacturer is cutting back on the protections which it is providing to us, and very frankly that is the perception of at least this panel—I will not say it is the perception of every mobile home owner in the country—it seems to me that you are operating at cross purposes.

What is so onerous about what the present law requires with respect to those notification requirements that causes you in effect to lose a little of that good will and to undermine, perhaps with some—with "some," I do not want to say with all—of the credibility that you have as an industry?

Mr. **Hussey**. I do not believe, Senator, that the notification requirements of defects—and "defects" are relatively minor items that we are talking about here, not collapsing roofs, not life-threatening items, not electrical systems that do not work, not major design flaws—we are talking about "defects," a loose panel, trim that comes down—notification to a home owner that he may have a problem with loose paneling, or a piece of trim that is falling down in more than one home, I think is an illusory protection.

The home owner has a 1-year warranty now. We have a 1-year warranty for our customers that takes care of that kind of a problem for the first year. The current law requires us to keep track of all of these minor items on homes that may be 20 years old, and if we find that that happened in more than one house, it is a possibility that there is a class of homes that may exist, HUD may then order us to notify the consumers of those homes that they may have a problem with a minor flaw in their home that is 20 years old that does not require us to repair.

My understanding of the Hiler amendments is that we are required to repair, replace, whatever, now what we were required to repair or replace under the existing law.

Senator **Bryan**. As interpreted by HUD—namely, the conjunctive requirements.

Mr. Hussey, am I being clear to you that the current law——

Mr. **Hussey**. Frankly, I deal in much more practical, on a day to day basis with those kinds of problems, and when it is broke, we fix it.

Senator **Bryan**. This is not an exercise of trying to stomp panels, please. You know much more about many aspects of this than I will ever hope to know, but I thought maybe you were familiar with that aspect, which is a matter of some dispute and debate as to whether or not those provisions are interpreted as "either/or" or if they are interpreted with an "and" being read into the language. So that has been at least an area of confusion.

Mr. Mix?

Mr. **Mix**. Senator, there is no public relations value for the manufacturer for the industry to send a letter to someone to say that there is something that is not life-threatening or seriously wrong with your home, but we are not going to come out and fix it. That just is not going to create any good will anywhere, and it does not accomplish anything. It does not do anything for the consumer, either.

Senator **Bryan**. But if there is a design error that is no fault of the consumer, does that not at least—I mean, if there is some defect, even though it may not be a threat to safety, and I have purchased a mobile home at considerable expense, I guess my argument would be: Why should I not, as a consumer, have a right to be aware of that and then I can make whatever judgment I want to make, either ignore it because it does not constitute a safety hazard, or maybe I had better take corrective action because if unrepaired it may cause further deterioration in my mobile home which ultimately can affect the value of the mobile home and maybe its future useability downstream?

Mr. **Mix**. Senator, should not a site-builder who builds more than one house, who discovers that he has been doing something wrong in the construction that is not life-threatening or a serious defect, notify the buyers of his homes? There is no requirement under any form of housing code that this has happened.

Senator **Bryan**. Yes, but the fact that they do not does not make it necessarily follow that you ought not to.

Mr. **Mix**. You can interpret that both ways, sir.

Senator **Bryan**. Sure. You do not go through some of the procedures they do. They do not go through some of the procedures you do. And you all reach different interpretations as to how thorough yours are, and I am sure they would argue that dealing with an inspector that can red-tag the job is a whole lot different than dealing with a quality assurance person inside the factory who is struggling to make sure that you meet the code but does not have the authority in effect to shut down the whole line.

When you red-tag a job, that means, you know, do not pass go, do not collect $200, you have got to get that thing corrected. Now obviously there are different kinds of inspectors who enforce things with different degrees.

Mr. **Connors**. Senator, one of the things that I think is important to note with respect to the notification of defects under current law is the extremely limited use that HUD has made of that program. When I talked about balancing earlier, what I was trying to suggest was that we were trying to, if you will, take away from the consumer something that was of not much help and give him something in return that would be more helpful on a day-to-day basis—that being the warranty.

Senator **Bryan**. And that is the warranty. Because my understanding is that really the frequency of this notification is not as great as I am led to believe. That you all, for example, have a waiver process, do you not, that if you fix that defect you do not have to go out there and give notice to the world. Am I mistaken on that, Mr. Connors?

Mr. **Connors**. Well, I am not sure that the waiver process is exactly that, but HUD has used the notification process in a very limited, limited way. I do not have the numbers on that, but I would be glad to try to get them for the record.

Senator **Bryan**. If you may. And if we might ask you, obviously some of the panel could not be here today. They may have some questions, if we could ask you to respond to any follow-up questions that may occur, we would appreciate it.

Mr. **Connors**. Certainly.

Senator **Bryan**. We thank you very much for your testimony and your responses. This subcommittee hearing will stand in adjournment.

[Whereupon, at 1:05 p.m., the subcommittee was adjourned, subject to the call of the Chair.]

[Additional material supplied for the record follows:]

TESTIMONY BEFORE THE
U.S. SENATE SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS
OF THE SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

IN THE MATTER OF: HR 5157 Amendment
to the Manufactured Home Construction
and Safety Standards Act of 1974

Written Testimony
of the
National Conference of States on Building Codes
and Standards, Inc.

By: Robert Wible
Executive Director
NCSBCS, Inc.
481 Carlisle Drive
Herndon, Virginia 22070

July 26, 1990

Before the
U.S. Senate Subcommittee on Housing and Urban Affairs
of the
Committee on Banking, Housing, and Urban Affairs

IN THE MATTER OF: H.R. 5157 Amendment to the Manufactured Home Construction and Safety Standards Act of 1974.

SUMMARY

Written Testimony
of the
National Conference of States on Building Codes
and Standards, Inc.

Regarding the U.S. House of Representatives proposed amendments to the Manufactured Home Construction and Safety Standards Act of 1974, the Executive Director of the National Conference of States on Building Codes and Standards, Inc. (NCSBCS) provides the following background information concerning NCSBCS; the origins of the 1974 act; and NCSBCS' role in the Federal Manufactured Housing Program:

1. NCSBCS was founded by the nations' governors in 1967 to serve the states' building code and public safety interests.

2. The policy-making body of NCSBCS is comprised of one governor-appointed delegate member from each state and several territories. Those delegates typically have the broadest possible regulatory authority for health, welfare, and life safety in new and existing buildings.

3. NCSBCS and the National Governors' Association (NGA) have an Executive Branch Agreement through which NCSBCS provides NGA with technical support on building code and public safety concerns. NCSBCS supports NGA in carrying out its various policies, which includes a 1987 policy on the Federal Manufactured Housing Construction and Safety Standards Program.

4. Since its founding, amongst other obligations, NCSBCS has assisted state governments and later the U.S. Department of Housing and Urban Development in the design, development, and implementation of manufactured housing regulatory programs.

5. NCSBCS notes that the current HUD rules and regulations for manufactured housing are essentially equivalent to that used by most state governments which regulate other factory-built buildings (i.e. industrialized/modular construction). In establishing the 1974 federal law, Congress envisioned a partnership role between the states and federal government in carrying out the law.

6. In 1976, in recognition of its work to promote the states' acceptance of the Federal program, NCSBCS received a sole-source, 5-year contract from HUD to provide monitoring services. In that, and in each successive, competitively-bid contract, NCSBCS subsequently has received, NCSBCS has had in place and functioned under numerous HUD-approved controls to assure the security of funds, data, and activities contracted for by HUD.

7. Since 1976, NCSBCS has not and cannot exercise or have delegated to it any of HUD's statutory or regulatory authority. NCSBCS has neither ever stopped a production line or closed a production facility.

8. Under the current HUD monitoring contract, NCSBCS data collection/monitoring activities are limited in scope and include 20% design package reviews. In auditing In-Plant Primary Inspection Agencies (IPIA) NCSBCS teams visit each manufactured home plant an average of 1.8 times annually for an average total of only 14 hours each year. Under contract, NCSBCS is funded to perform only a set number of total inspections. Thus if one facility is visited at HUD's direction more frequently than average then some other facility is visited less frequently.

9. NCSBCS members and staff believe that manufactured housing is an important part of America's affordable housing solution. NCSBCS works to support the industry, not only through continued participation in the HUD program, but by: testifying at zoning hearings, updating federal standards, developing and maintaining the national installation standard for manufactured housing, and offering training programs.

10. The states, through their NCSBCS delegates, have reviewed the U.S. House of Representatives' proposed amendments to Title VI, as outlined in H.R. 5157, and continue to believe that they contain provisions that are detrimental to consumer protection and to existing state regulatory authority. The states urge the U. S. Congress to reconsider these proposed change to the Federal law.

11. NCSBCS will continue to work cooperatively with industry, consumers, dealers, and federal and local governments to assure the American public of the availability of safe, decent, and affordable manufactured housing.

Before the
U.S. Senate Subcommittee on Housing and Urban Affairs
of the
Committee on Banking, Housing, and Urban Affairs

IN THE MATTER OF: H.R. 5157 Amendment to the Manufactured Home Construction and Safety Standards Act of 1974.

SUMMARY

Written Testimony
of the
National Conference of States on Building Codes
and Standards, Inc.

The National Conference of States on Building Codes and Standards, Inc. (NCSBCS) is a not-for-profit organization founded in 1967 by the nation's governors to nationally coordinate the building code and public safety interests of the fifty states and several territories. The voting membership of NCSBCS is comprised of one governor-appointed delegate from each of the states and several territories. Each governor typically selects as an NCSBCS delegate the state official with the broadest responsibilities for health and life safety in new and existing buildings in their state or territory. Since 1981 NCSBCS has worked cooperatively with the National Governors' Association under the terms of an Executive Branch Agreement. (A copy of the history of NCSBCS, its statement of purpose, current objectives, delegate selection criteria and the NGA-NCSBCS Executive Branch Agreement are attached.).

Based upon NCSBCS' founding principles; this organization's commitment to safe, decent and affordable housing, and to the housing policies of the National Governors' Association; and twenty-three years of experience in assisting the states and later the federal government in developing and administering manufactured housing programs (under contract to the U.S. Department of Housing and Urban Development), the governor-appointed delegate members and staff of NCSBCS have followed with great interest the U.S. House of Representatives' proposed amendment to H.R. 5157 concerning making substantive changes to Title VI, the Manufactured Home provisions of the Housing and Community Development Act of 1974.

The state governments are providing their views to the Senate subcommittee on the above amendment through the NCSBCS State Task Force on the Federal Manufactured Housing Program. This body was established in 1985 when HUD requested NCSBCS to collect and coordinate state concerns regarding the federal manufactured housing program. In addition to requesting such testimony from the states, the subcommittee also requested that NCSBCS, as an organization, offer testimony regarding NCSBCS' structure and involvement since 1967 in the manufactured housing field. As the Executive Director of NCSBCS, I am pleased to present to the subcommittee this overview on our organization and the responsibilities which the NCSBCS Housing and Building Technology Division have under contract with HUD. I will be present during your July 26 hearing and would be pleased to answer any questions you may have regarding this testimony. For the record, I have attached a copy of the written questions submitted to me following my May 24, 1990 testimony before the U.S. House of Representatives.

NCSBCS - The Organization

NCSBCS had its formal beginnings in Wisconsin in 1967. It was formed in response to recommendations contained in the Advisory Commission on Intergovernmental Relations Report, "Building Codes: A Program for Intergovernmental Reform." From that report a group of concerned governors, working with the National Bureau of Standards (now the National Institute of Standards and Technology, NIST), established NCSBCS as a not-for-profit organization to represent, on the national level, the governors' building code and public safety concerns.

As noted earlier, the policy-making body of NCSBCS is comprised of state governor-appointed delegate members who typically are the chief building regulatory officials of each state. The delegates then elect a nine member Board of Directors from among the governors' appointees. The Board of Directors is charged with overseeing NCSBCS association activities. Through the association's president, biannual reports are made to each of the nation's governors.

Since 1976, when NCSBCS received its first contract from the Energy Research and Development Administration (ERDA, the forerunner of the Department of Energy), NCSBCS has had an Executive Director and a paid staff to carry out the day-to-day operations of the organization. These functions include: providing a wide range of technical and information services to the state building regulatory agencies; administering various contracts for agencies of federal, state, and local governments; and various membership and publication programs.

Those government contracts which are of a confidential or a quasi-regulatory nature (including the HUD Manufactured Home Monitoring Contract), are safeguarded from any potential state government, delegate, and other NCSBCS member interference or illegal access to confidential data, by a series of strict reporting, accounting, and other program structural controls, many of which were designed in cooperation with and remain under the oversight of the appropriate contracting officer(s) at HUD. Currently all such contracts are being managed within the Housing and Building Technology Division of NCSBCS which is responsible for both the HUD contract and the Multi-State Modular Building Program.

Over the years, the NCSBCS staff has grown and contracted, depending on the amount of public and private sector contract work, on the amount of annual assessments received from the states and other members, and upon publication sales. In 1986 for example, NCSBCS had 37 employees, 23 of whom were involved in the HUD contract. At present NCSBCS employs a staff of 54 who work in one of 4 different divisions.

Thirty-two Housing and Building Technology employees are involved either full or part-time in the HUD Monitoring Contract. The division's director, and employees within the Housing and Building Technology Division of NCSBCS which is responsible for both the HUD contract and the Multi-State Modular Building Program who work under the HUD contract, are responsible directly to, and work in daily contact with HUD's Government Technical Representative (the GTR) and other appropriate HUD personnel. All monitoring and other sensitive confidential data, reports, determinations, etc., gathered under that contract are transmitted directly to HUD without the review, or approval, of any non-HUD contract NCSBCS employs. This includes the Executive Director of NCSBCS.

The NCSBCS budget is prepared each year by the Executive Director and the Organization's Controller. Budget review and adoption is a function of the NCSBCS Board of Directors. All NCSBCS contract and budget procedures are carried out in conformance with Board policy, acceptable accounting procedures, and where HUD contracts are concerned, in coordination with and under the approval of appropriate HUD program and financial management personnel. NCSBCS financial records are audited annually by the private accounting firm of Feddeman, Lesche, and Tate, and are periodically audited by HUD and other federal agencies.

As a quasi-governmental organization, NCSBCS has a special working relationship with the National Governors' Association, the Council of State Governments and the National Conference of State Legislatures. NCSBCS and NGA coordinate appropriate policy positions and whenever possible Congressional testimony under a formal "Executive Branch Agreement." Under this agreement, NCSBCS provides direct technical support to several NGA standing committees, including the Economic Development and Technological Innovations Committee. In the mid-1980's, based in part on reports prepared by NCSBCS, the governors adopted as formal NGA policy several positions relating to affordable housing and building regulations.

Among those was the attached policy concerning manufactured housing which in part calls for, "...Congress and HUD...(to).. work cooperatively with the states and industry to improve the quality of manufactured housing. In such an effort, HUD should continue to work with the states to reaffirm and strengthen the vital regulatory and administrative roles which states continue to provide under various aspects of the Federal Manufactured Housing Construction and Safety Standards Program."

In addition to its formal relationship with NGA, NCSBCS also has a Memorandum of Understanding with the National Institute of Standards and Technology and with the U.S. Consumer Product Safety Commission. Under the latter relationship, in the late 1980s NCSBCS attempted to coordinate a formal CPSC - HUD agreement through which CPSC could gather and then share with HUD better fire and other accident incident data involving manufactured housing. A lack of appropriate HUD and CPSC funding thus far has prevented that formal data system from being established.

Besides these formal cooperative agreements, NCSBCS delegates and staff serve on numerous national, state, and regional organizations in the building design and construction field, including the model building and fire code organizations, the American Institute of Architects, the American National Standards Institute, the Council of State Community Affairs Agencies, and the National Institute of Building Sciences. Most recently NCSBCS President and Colorado delegate John Maldonado was appointed to serve on HUD Secretary Jack Kemp's Commission on Regulatory Barriers to Affordable Housing.

In service to the states, NCSBCS also provides limited secretariat services to: the Association of Major City Building Officials (comprised of the building commissioners of 31 of the nation's largest cities), the Joint Council on Industrialized/Modular Buildings, the Council of States on Industrialized Housing and Buildings, and the NCSBCS State Task Force on the Federal Manufactured Housing Program. Additionally, NCSBCS delegates serve as members on the Joint State/Industry Council on Manufactured Housing, to which the Manufactured Housing Institute provides secretariat services. In late 1988 that body released a consensus report to this Committee concerning the need for improvements in the federal manufactured housing program (enclosed).

Origins of State and Federal Regulations over Manufactured Housing

As trailers evolved into mobile homes, and later into manufactured housing, state after state shifted its regulatory responsibilities for such structures from departments of motor vehicles to separate manufactured/mobile home divisions within state building regulatory agencies. As this industry grew extensively in the late fifties and into the 1960s, so did state concerns over fire safety, quality and durability of such structures. Additionally industry growth brought into focus the total lack of uniformity or reciprocity between states regulating manufactured/mobile homes which added excess cost and restricted interstate commerce.

Shortly after NCSBCS was founded in 1967, the delegate members expressed their strong concerns about the barriers created by a lack of uniformity and interstate reciprocity. They targeted the development of uniform state regulations for all types of buildings, mobile, modular, and site-built as one of the major objectives for the new organization. From 1970-1972, with financial assistance from the Department of Commerce, NCSBCS delegate members participated on a "Special Working Group on Legislation and Regulation." By 1973 that group, in cooperation with the model building code organizations, the National Association of Building Manufacturers, the Mobile Home Industry, and the Departments of Commerce and Housing and Urban Development, developed a series of model laws and regulations which were later adopted by the Council of State Governments as model state legislation (see enclosures).

It should be noted that the 1972-1974 model acts and regulations concerning mobile homes were not based on automobile legislation. Instead, the administrative details of these regulatory systems dealt with the special needs of housing built on a production line in a factory. It called for inplant inspection agents, design approval agencies, and quality control manuals. Over the course of the next ten years the model acts developed by this consortium of groups became the technical and administrative basis for most of this country's 36 state regulatory systems for industrialized/modular buildings. The model acts were also the basis for the state programs which were ultimately used to model the HUD manufactured housing plans review and monitoring procedures (Section 614 in the 1974 law).

In 1986-88 the consensus based Joint Council on Industrialized/Modular Buildings did an extensive review of the 1974 model rules and regulations. After over a decade of living "in the real world" with the regulations based on the 1974 model acts the Joint Council (comprised of states, manufacturers, third parties and consumers) found that only minor changes were needed to satisfactorily "modernize" the rules and regulations governing the monitoring of primary inspection agencies and design reviews. The revised model regulations and most of the 36 state regulatory programs for industrialized/modular buildings thus still function parallel to the inspection and record procedures contained in Section 614 of the existing HUD program for manufactured housing. NCSBCS currently is gaining state adoption of an interstate compact to regulate industrialized/modular buildings which will use these updated model rules.

Federal Preemption and the Role of the States

While NCSBCS and others may have been successful in developing model state laws and regulations governing mobile homes in the early 1970s, getting the states to adopt those acts, enforce their laws, and enter into effective interstate reciprocity with their neighbors proved to be much more difficult. The alarming number of deaths and injuries in mobile homes continued. Sparked in part by a feature on manufactured home safety on "Sixty Minutes," national consumer organizations, industry, building, fire and other safety officials worked with the U.S. Congress to frame, introduce, and gain passage of Title VI of the 1974 Housing and Community Development Act. As noted earlier, the contents of the federal law and its subsequent HUD regulations were drawn from multiple sources: the regulatory system and many definitions came from the model acts and existing state mobile home programs (especially that of the state of California); consumer protection components came from both state and Federal law, including the National Highway Transportation Safety Act; and the building construction safety standards were taken directly (with some modifications) from the then existing national voluntary consensus standard for mobile homes, which was produced and maintained by the National Fire Protection Association, NFPA.

In adopting Title VI of the 1974 Act, Congress, using the Interstate Commerce clause of the Constitution for the first time, preempted the constitutional police power authority of state governments to regulate the design and construction of a only one type of housing (i.e. mobile homes which are now called manufactured housing). Congress expressly left the regulation of industrialized/modular buildings in the hands of the states. In taking this precedent setting step, Congress recognized that, in protecting the public by preempting all of the states, they also were preempting a number of excellent state mobile home regulatory programs. That factor, plus a recognition that HUD would need effective partners to help carry out and implement the new federal law, brought the framers of the Federal legislation (and regulation) to structure the Federal Manufactured Home Construction and Safety Standards Program to involve the states, to the fullest extent possible in the administration, implementation, and enforcement of the Act. For example, in Section 604 a., preempted states were assured by Congress that, "Each such federal manufactured home standard," (a clear indication to the states that not just the first standard, but each subsequent edition of that standard), "shall be reasonable and shall meet the highest standards of protection, taking into account existing state and local laws relating to manufactured home safety and construction." Later in that same section, the law calls for the Secretary, in setting and updating the standards, to "consult with such state or interstate agencies (including legislative committees) as he deems appropriate."

Similar references to an on going cooperative relationship between the federal government and the states exist in Sections 605, 609, 614. That relationship is especially strong in Sections 623 and 624 which reserve to the states the right to continue to regulate all other aspects of manufactured home construction and safety not preempted under that law. The states also retain to the right, "at any time" to "assume responsibility for enforcement and manufactured home safety and construction standards relating to any issue" covered in the federal manufactured home standard, after submitting to "the Secretary, a state plan for enforcement of such standards." (It should be noted that thus far in the 14 year history of this program, in large part due to the states' high level of participation in this program, no state has deemed it necessary to take such a step.)

Under the subsequent federal regulations adopted by HUD, the Secretary of the Department implemented a program which, "involve(d) state agencies in the enforcement of the Federal Manufactured Home Standards to the maximum extent possible consistent with the capabilities of such agencies and public interest." (See Section 3282.1, Subpart A of the Manufactured Home Procedural and Enforcement Regulations.)

The states chose to fulfill those roles in a number of ways, including providing qualified state inspectors to HUD monitoring teams, serving as State Administrative Agencies (SAAs), and as public third party design (DAPIAs), and as inplant primary inspection agencies (IPIAs). In 1976, HUD chose to follow Congressional intent to maximize the state's participation by awarding to the association representing the governors' building code and public safety interests (NCSBCS) a sole-source contract to serve as the Secretary's monitoring agent for this program. In that contract, HUD noted that, "It is the further purpose of this contract to provide a mechanism through which the states can efficiently and effectively participate in the program of enforcement of the Federal mobile home construction and safety standards. Through the use of this mechanism, the states will be provided assurance that mobile homes manufactured in other states meet the standards. The mechanism allows the use of qualified state personnel in this enforcement system..."

The HUD Monitoring Contracts with NCSBCS

Since 1981, HUD, under Federal procurement law, has competitively bid the monitoring contract. At the states' request, NCSBCS has submitted proposals each of the three times that such requests for proposals have been solicited. All three times NCSBCS has proven to be the successful competitive bidder.

The scope of work under each of these contracts and therefore the dollar amounts involved in each have varied according to the Department's needs in administering this program on behalf of Congress and the American public. For example, in fiscal years 1980 and 1981, the annual contract costs respectively were $3,659,510 and $3,242,847. In fiscal 1989, the cost of the monitoring contract was $2,900,000 and included a scope of work similar to that described in the current HUD monitoring contract.

In the spring of 1988, HUD reassessed its contract needs and issued its third competitive bid RFP to provide the Secretary with monitoring and other technical services, including limited emergency disaster investigation capabilities. The new (and current) contract also called for providing assistance to HUD in conducting at HUD's direction, a very limited amount of tests of manufactured home components which the Department might deem necessary during the contract to determine whether or not a third party agency(ies) were fulfilling their duties and/or whether or not a manufacturer indeed was building homes which conformed to the Federal standards. In December 1988 the NCSBCS Housing and Building Technology Division was awarded that contract. The annual cost of the current HUD monitoring contract is $3,100,000. In its first year, however, since HUD did not require that all of the contracted tasks be conducted to the full scope of the contract, only $2,900,000 was expended. Against current manufactured home production rates, this then translates into a cost of less than $10 per floor for all of the NCSBCS HUD contract services now being provided (inspections, design reviews, training, and State Administrative Agency Services).

As noted earlier in this testimony, the NCSBCS Housing and Building Technology Division staff under this and previous contracts, fulfill their day to day contract responsibilities under the direction of the HUD Government Technical Representative in the HUD Manufactured Home Construction and Safety Standards Division. Over the years, solely at the GTR's direction, contract staff have worked with the Department, frequently in consultation with industry and the third parties, to develop uniform monitoring/auditing and other administrative procedures necessary to provide the Department with reports and other data on the performance of both public and private third party agencies. These efforts have enabled HUD, when necessary, to take legally defensible actions on behalf of this program. In addition, under the terms of the HUD contract, qualified NCSBCS Housing and Building Technology Division staff have been directed by HUD to provide testimony and technical data for use in HUD administrative proceedings and in federal court when the Department has chosen to take action against third parties and manufacturers whom the Department believed to be in violation of various aspects of the federal law and regulations.

It is important to the Subcommittee's understanding of the NCSBCS monitoring contract with HUD, to note here that HUD does not have the legal authority to, nor has it ever delegated its statutory or regulatory enforcement authority to anyone at NCSBCS. Contrary to the claims of others, NCSBCS monitoring teams do not close production facilities, remove labels from third parties, or stop production lines.

What NCSBCS is contractually responsible for is the limited data collection on the work of the third party design and in-plant inspection agencies. In reviewing the performance of HUD approved Design Approval Agencies (DAPIAs) NCSBCS Housing and Building Technology Division contract staff perform a random 20% review of all of the current DAPIA-approved design packages used to construct manufactured homes. This is done to assure that the approved designs conform with the HUD code. Staff also perform visits to the DAPIA headquarters to assure that records required by HUD are properly maintained and that DAPIA personnel are qualified to perform their plan approval functions. It is useful to note that state governments require similar reviews of the design approval agencies working in their industrialized/modular building regulatory programs.

In auditing the performance of in-plant primary inspection agencies (IPIAs), HUD also requires NCSBCS staff to go to IPIA headquarters to review administrative procedures and assess staff qualifications. More importantly, and as is required in state regulatory programs for modular housing, the Department's monitoring agent is required to go where the IPIA works. NCSBCS monitoring teams, therefore, briefly visit manufacturing facilities to assess how well the HUD-approved IPIA is fulfilling its responsibility. The IPIA is charged with assuring that homes built on a manufacturers assembly line are constructed according to the DAPIA approved plans and quality assurance manual. It is important to note that the HUD regulations mandate that the IPIA is responsible for assuring that the manufacturer has in place a quality assurance program that successfully assures that HUD code conforming homes are being produced. IPIA personnel, however, are only required to spot check the adequate performance of the manufacturer's quality control system. The IPIA inspector actually sees each home only at one point during its construction process. While third parties may visit manufacturing facilities more frequently, oversight once during the construction process is the mandated norm.

Since as HUD's monitoring agent NCSBCS teams are only supposed to perform spot checks on the IPIA's performance of its duties, such plant visits are limited in number and duration. Contrary to misinformation on this aspect of the program, NCSBCS monitoring team personnel annually perform their unannounced visits to each manufacturing facility in this country an average of 1.8 times a year. The average number of hours per plant that NCSBCS monitoring teams are in a single manufacturing facility equals a total of only 14 hours each year. These are averages since HUD has the authority to ask NCSBCS teams to oversee IPIA's performance in some production facilities more or less often than the 1.8 times per year average figure. Under the HUD contract NCSBCS is funded to perform only a set number of total inspections each year, thus if one facility is visited at HUD's direction more frequently than average then some other facility is visited less frequently than average.

The NCSBCS Housing and Building Technology staff also provide technical assistance to State Administrative Agencies (SAAs, which perform the consumer complaint/class action determining function of the Federal law) and conduct training programs for SAAs, third party agencies and manufacturing personnel. The purpose of such training is to keep all parties informed of HUD procedures, assure uniformity in the program, and inform all parties of any changes HUD may make in its regulatory and administrative procedures and its standards.

Throughout the history of the HUD monitoring program assuring the consistency of monitoring visits has been extremely important to NCSBCS contract personnel, the Department, third parties, and to manufacturers. Since it is not possible "to clone one perfect monitoring person," HUD and NCSBCS have worked with industry and third parties to develop uniform training and monitoring guideline documents to help assure as much uniformity as it is humanly possible in the inspection process. At the original suggestion of the third party agencies, in the early 1980s, NCSBCS staff developed, in consultation with HUD and industry, the first of a series of uniform monitoring guideline documents called the Acceptable Quality Level (AQL) Manual. With HUD's concurrence, the manual is used today as a set of instructions to NCSBCS monitoring visits to spot check a third party agency's performance. It is worthwhile noting that the state governments for which NCSBCS provides uniform modular building monitoring services have requested NCSBCS staff to develop a similar set of uniform guidelines for their own state monitoring personnel. Over the years, the AQL Manual has been updated with direct input from MHI, ARR, individual manufacturers, and third parties.

As noted earlier, the manufacturer's DAPIA-approved design packages, third party agency evaluations, and all other confidential data gathered by Housing and Building Technology Division staff are precluded by law and internal controls from being shared with anyone other than appropriate HUD staff. Such confidential data is available only at HUD's direction.

Throughout the 14 years that NCSBCS has supplied staff to serve as HUD's monitoring agency, the financial and program records of NCSBCS have been periodically audited by HUD. NCSBCS's HUD approved expenses in this program are paid under a cost plus fixed fee contract basis. NCSBCS is responsible only for tracking the distribution of HUD labels given by the IPIAs to be affixed to conforming manufactured homes. NCSBCS does not collect the funds generated from the purchase of such labels nor does NCSBCS have the authority or ability to withhold or recall labels from an IPIA or a manufacturer. NCSBCS personnel in charge of label distribution are proud of their record over the past 14 years of being able to keep track of each of the labels they have distributed on behalf of HUD.

Accountability

NCSBCS is also proud of its HUD-audited record of fiscal accountability; accountability to the Secretary, to the Congress, to industry and most importantly to the people who purchase and live in manufactured homes. During each of our four monitoring contracts with the Department, NCSBCS has functioned under budget, either enabling HUD to make other appropriate use of its label fee funds, or enabling the Department to extend its contract by several additional months of operation at no additional cost. Over the years in carrying out our contractual obligations to the Department, NCSBCS has sought to perform its monitoring and other functions in the most cost-effective fashion possible. Cost effective procedures and other mechanisms created by NCSBCS in consultation with HUD have helped make the contract's per floor costs of monitoring manufactured housing less expensive today (when you consider cost of living adjustments) than it was nearly ten years ago. This has been accomplished without affecting the Department's ability, when necessary, to take appropriate enforcement action in this program.

The NCSBCS Housing and Building Technology Division staff and the state employees who travel on the NCSBCS monitoring teams also are proud of their overall record in fulfilling the day-to-day program responsibilities. The federal manufactured housing program was designed to use the minimum amount of regulation possible to assure the public that only homes conforming to the minimum federal design and construction safety standards are being built and sold in this country. NCSBCS believes strongly in that goal. Functioning within the parameters and requirements of each of our contracts with the Department, NCSBCS staff have done the best that they can to fulfill their share of the responsibility to meeting that objective.

As HUD's monitoring agent, NCSBCS gathers data which the Department must sometimes use to take appropriate enforcement actions mandated by the 1974 act. NCSBCS has therefore acquired among some the reputation of "bad cop." We understand that such a reputation in part comes with the job; after all, it is human nature to want to shoot the messenger.

NCSBCS knows that the monitoring team personnel are not always perfect; some have on occasion "smiled" when they found a nonconformance in a home that the third party agency has missed. Some have occasionally been in error in their evaluations. But when such actions have occurred and been reported to us, we have taken immediate appropriate action.

NCSBCS believes in the important work that it has been charged with by the Department, and NCSBCS believes that it must be held accountable for the manner in which it fulfills the contractual obligations. In that regard, in consultation with the Department, NCSBCS has streamlined its auditing procedures and administrative forms. The organization has worked hard to enhance communication not only with the third party agencies NCSBCS staff monitor but also with the manufacturers. Such a constructive dialogue is important to everyone. It is especially important in a time when industry is facing a decline in sales as measured in total numbers. (It should be noted that total square footage sold has not dropped as significantly since more multi-floor units are now being sold.)

Based upon NCSBCS' 14 years as HUD's monitoring agent, the staff at NCSBCS know that most manufactured homes built today are constructed by people of integrity, working to build a quality product. The Housing and Building Technology personnel unfortunately also are aware of data which indicates that many shortcomings still exist in ensuring that only conforming homes are built. Over the years the HUD contract staff have made recommendations to the Department, and at the Department's direction to third parties and to the industry, as to ways in which the federal program can be made both more efficient and more effective, thus enabling this industry to fulfill its potential in supplying affordable, safe, decent, durable, quality housing to Americans of all ages and incomes. Many of those recommendations have been incorporated into the current HUD program and others have not. Our staff, however, is hopeful that dialogue undertaken by HUD last year with all of the parties involved in this program along, with what you discuss here in this hearing as you consider changes to Title VI of the 1974 Act, will result in needed improvements to this program.

NCSBCS Support for Manufactured Housing

I have concentrated on some of the specific ways in which the NCSBCS monitoring contract staff fulfills its responsibilities, not only to the Department, but through the contract to industry and to consumers. In addition to NCSBCS' role as HUD's monitoring agent, I would like to note several ways in which NCSBCS, as an association, works to support the manufactured housing industry. Since we began, NCSBCS has undertaken a number of programs and projects which we or the states have funded, to make improvements in various systems affecting the manufactured housing industry. For example, over the years delegate and other state government members have regularly testified at zoning hearings concerning the nature of the regulatory system which stands behind manufactured housing. This testimony has helped convince many communities to change ordinances which originally excluded manufactured housing. NCSBCS members and staff, where appropriate, have participated as members of various consensus bodies working to update and maintain the Federal Manufactured Housing Construction and Safety Standard.

Since 1978, NCSBCS has developed, published and maintained, in coordination with the National Fire Protection Association, the American National Standards Institute approved consensus standard A-225.1 governing the proper installation of manufactured housing. Adopted and enforced by state and/or local governments, this standard helps assure consumers of the safe and durable installation of their homes. NCSBCS staff currently are offering training programs in several states on this standard. NCSBCS has also worked with its member state governments, through the State Task Force on the Federal Manufactured Housing Program, to encourage the states to adopt and adequately enforce these manufactured home installation standards. Historically this has been the one area outside the parameters of the 1974 law which has most adversely affected the overall performance of homes built under this program. The State Task Force is anxious to work with HUD, consumers, industry, state governments and Congress to ensure adoption and enforcement of this important program.

States' Concerns

As they will note in separate testimony, the states believe that, while there are needed changes to be made to Title VI of the 1974 Act, most of the changes offered in the H.R. 5157 amendment would result in an overall weakening of consumer protection and consumer confidence in manufactured housing. The states believe in and support the growth of affordable manufactured housing in this country. The states fail to see, however, how the current law's concept of defects, determining class recalls, reducing HUD's enforcement capabilities, and blurring the overall technical distinction between manufactured and modular homes will be of benefit to either industry or to consumers.

In addition to the states' testimony, attached are my responses to the questions asked of me during my testimony before the U.S. House of Representatives' subcommittee. In a number of these questions, I have explained some of the states' overriding concerns with the current proposed manufactured home amendments contained in H.R. 5157.

Concluding Statement

I have tried to provide in this testimony an overview concerning NCSBCS the organization and its role over the years under successive contracts with HUD as the Secretary's monitoring agent. As the Executive Director of NCSBCS, I am pleased to have been afforded this opportunity to provide you with some basic information which I trust will prove helpful in your deliberations concerning needed improvements and revisions to the 1974 Manufactured Housing Construction and Safety Standards Act. As I mentioned earlier, the formal state government views on the contents of that amendment have been provided to you through the separate testimony of the Chair and Past Chair of the State Task Force on the Federal Manufactured Housing Program. Their views reflect some of the history I have covered in my testimony; the state government's partnership role with the federal government in this program, a commitment to provide consumers with quality affordable housing and NCSBCS' continued support for the NGA policy on manufactured housing.

While the debate today on the relative merit of the U.S. House of Representatives' amendment to the 1974 Act may at times become animated, whatever the outcome of of this issue, NCSBCS, its members and staff remain committed to work cooperatively with all parties to enhance the availability of affordable, safe, decent, durable, quality manufactured housing for our citizens.

NCS BCS
National Conference of States on
Building Codes and Standards, Inc.

481 Carlisle Drive
Herndon, Virginia 22070
(703) 437-0100

National Conference of States on
Building Codes and Standards, Inc.

presents

THE FIRST 20 YEARS

A Composite History 1967–1987

September 14, 1987

In Memorium

This pamphlet is dedicated to the memory of Gene Rowland, first president of NCSBCS, who died February 2, 1987. Gene teamed with Wisconsin Governor Warren P. Knowles to convene the first meeting of the NCSBCS organization in Madison, Wisconsin in November 1967.

Ever mindful of the basic problem confronting the nation wherein a multiplicity of building codes plagued builders, realtors, and state and local governments, Gene had a dream. That dream—an organization such as NCSBCS—would help bring uniformity of codes, methods of reciprocity, and methods of inspection into reality.

In Gene's report to an early conference, he stated that NCSBCS (at that time with 31 participating states) could cooperate with the National Bureau of Standards (NBS) to provide needed interstate cooperation.

The rest is history. After serving as president of NCSBCS, Gene went to work for NBS where one of his duties was to provide secretariat services for NCSBCS.

Gene's dream has been fulfilled. NCSBCS, now in its 20th year, has branched out into the areas of laboratory accreditation, training, and manufactured housing, to name a few.

Gene Rowland's dynamic talk at the 19th Annual Conference's Past Presidents' luncheon was indicative of his deep conviction to NCSBCS.

Gene will long be remembered by his colleagues as the catalyst in the NCSBCS movement. His words of caution and guidance, where appropriate, will always remain on the minds of his associates.

In closing may we say "thanks" to his family for sharing him, for Gene once said of the two most important things in his life, his family was number one and NCSBCS' success was number two.

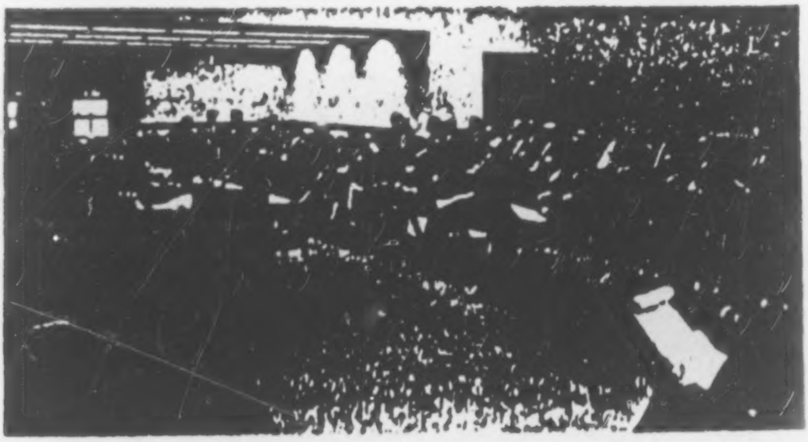
The Very First Meeting
How It All Came About

On May 25 and 26, 1967, several states, among them New York, New Jersey, Virginia, Wisconsin, Iowa, North Carolina, and New Mexico, met at the National Bureau of Standards to consider the advisability of establishing some kind of organization of state officials to promote a better degree of order in building codes and standards.

At this meeting, the group assembled queried Mr. William Colman and Mr. James Pickford of the Advisory Commission on Intergovernmental Relations (ACIR) on the recommendations contained in their report on building codes. Prior to this meeting, ACIR, which is a national bi-partisan body, had undertaken the study of building code problems at the urging of mayors and county officials.

Several states recognized the importance of their role in solving the building code problem, and that if the states didn't do something, the federal government would step in.

The result of the initial meeting at NBS, which had been called by Gene Rowland and Governor Knowles, was the announcement of a follow-up meeting to be held in Madison, Wisconsin in November 1967.



The National Meeting of State Public Building Code Officials took place November, 20, 1967 in Madison, Wisconsin. Out of that meeting came NCSBCS.

The Followthrough

C. Sutton Mullen, who has been active in NCSBCS throughout its 20 years, told attendees at the Madison meeting that multiplicity in building codes often made it impossible to design a building for one jurisdiction that would be accepted in a neighboring jurisdiction.

On Monday, November 20, 1967, a meeting convened in Madison, Wisconsin as the "National Meeting of State Public Building Code Officials." This was the first official meeting of what is now known as NCSBCS.

Participants discussed the many problems of building codes such as:

- Insurance
- Life Safety Code
- Multiplicity of Design
- Need for Uniformity
- Exposure

In attendance at this meeting were persons destined to become key figures in the development of NCSBCS. Among them were: Dr. J. R. Wright (Chief, Building Research Division, NBS), J. P. Eberhard (Director, NBS Institute for Applied Technology), C. Sutton Mullen (State of Virginia), Gene Rowland (State of Wisconsin), Lloyd S. Shook (Western Actuarial Bureau), C. T. Mahaffey (NBS Building Research Division), and Mr. Raymond Ziegler (of the architect firm of Allison, Rible, Robinson, and Ziegler). Governor Knowles was also present at this meeting.

The major portion of this meeting (1967) was devoted to finding ways of reaching solutions to the problems.

Also outlined at this meeting was the type of assistance which could be furnished by the National Bureau of Standards if a cooperative national conference of the states was established.

Mr. Gene Rowland was elected the first National Chairman, and the organization was named the National Conference of States on Building Codes and Standards. The group also considered accepting NBS assistance for the states in this venture.

NCSBCS Presidents

Following is a list of all Past Presidents of NCSBCS and the year(s) served:

1967–68	Gene A. Rowland	State of Wisconsin
1968–70	Edward E. Estkowski	State of Wisconsin
1970–71	C. Sutton Mullen	State of Virginia
1971–72	Kern E. Church, P.E.	State of North Carolina
1972–73	Harry A. Stone	State of Idaho
1973–74	Bernard E. Cabelus	State of Connecticut
1974–75	Delmont C. Thurber, P.E.	State of Montana
1975	Kenneth C. Henke	State of Iowa
1975–77	Glen R. Swenson	State of Utah
1977–79	Charles J. Dinezio	State of Massachusetts
1979–80	John Wenning	State of Wisconsin
1980–81	Norman R. Osterby, P.E.	State of Minnesota
1981–82	Joseph A. Cirillo	State of Rhode Island
1982–83	Jack L. Kerin	State of California
1983–84	Richard E. Wolfe	State of Arizona
1984–85	William M. Connolly	State of New Jersey
1985–86	David M. Hammerman	State of Maryland
1986–87	Jack L. Daniel	State of Nebraska

Early Presidents of NCSBCS were (left to right): Kenneth Henke (1975), Gene Rowland (1967-68), C. Sutton Mullen (1970-71), Kern Church (1971-72), Bernard Cabelus (1973-74), and Delmont Thurber (1974-75).

Annual Meetings

Following is a list of all Annual Meetings of NCSBCS, the locations, and dates:

Conference #	Location	Date(s)
*	Madison, WI	November 20, 1967
1st	Washington, DC	May 6–7, 1968
2nd	Hollywood, FL	April 27–30, 1969
3rd	Wichita, KS	April 19–22, 1970
4th	Alexandria, VA	April 18–22, 1971
5th	Boise, ID	April 18–20, 1972
6th	Hartford, CT	May 6–11, 1973
7th	Austin, TX	April 28–May 3, 1974
8th	Santa Fe, NM	April 27–May 1, 1975
9th	Providence, RI	September 20–24, 1976
10th	Bozeman, MT	September 19–22, 1977
11th	Annapolis, MD	September 11–15, 1978
12th	St. Louis, MO	September 10–14, 1979
13th	Scottsdale, AZ	September 8–11, 1980
14th	Boston, MA	September 14–17, 1981
15th	New Orleans, LA	September 12–16, 1982
16th	Madison, WI	September 11–15, 1983
17th	Denver, CO	September 9–13, 1984
18th	Portland, ME	September 9–12, 1985
19th	Baltimore, MD	September 14–18, 1986
20th	St. Paul, MN	September 13–16, 1987

*Original organization meeting

Montana Lieutenant Governor Ted Schwinden opened the 10th Annual Conference in Bozeman with a talk on Montana's building energy conservation program. Seated, left to right, are: President Glen Swenson, Delmont Thurber, Bozeman Mayor Edmund Sedivy, Dorothy Thurber, and Joseph Cirillo.

Did You Know?
or "Short Shots"

The "first ever" Regional Meeting (delegates and all) was held in Las Vegas, Nevada in 1971 under the chairmanship of Harry Stone, Western Regional Chairman. The biggest winner of all was Dorothy Scott (now Dorothy Thurber). She won a cupful of nickels to the tune of $1.85.

At the 1974 conference in Austin, Texas, the delegates had a heart-stopping experience when a gang of desperados (in a "rigged robbery" instigated by Chuck Talmage) relieved them of their valuables. One delegate wife remarked, "I'll never be the same." Needless to say the "valuables" were all returned and it was a thrill and not so funny initially.

At the 1972 conference in Boise, Idaho the conference outing included an "old time" fiddlers contest at Weiser, Idaho—complete with an impromptu "jig" by conference president Harry Stone.

How many of you can recall the old conference days and the meetings of the "Reciprocity" and "Computer Technology" committees? Ray Oliver chaired the Reciprocity and Walt Stickney the Computer Technology groups.

Scene: South Babcock Street, Bozeman, Montana two months prior to the 1977 Bozeman Conference. Incident: Del Thurber and Don Pinkerton in an unlicensed vehicle, driven by Del, going the wrong direction on a one-way street. A cop stops the car—Thurber gets out—tells the cop he has a "VIP Washington D.C. visitor" in the car. Result: The cop says "okay," and lets them go. Nobody could do that except "those guys" in Montana!

The Great White Hunter from Connecticut will long be remembered in Cut Bank, Montana. By the way, he did get home with the elk rack, too!

Since "day one" there have been three guys in the conference with unique records—Don Pinkerton and Del Thurber for their uncanny ability to find the closest do-nut shops, and Glen Swenson who can "smell" ice cream miles away.

And not to forget the spouses program, here's a tidbit: the first official spouses program was organized by Dorothy Thurber at the Bozemean 10th Annual NCSBCS Conference. Seventeen wives of delegates were in attendance and a good time had by all. Since then, spouses' programs have been an integral part of all annual conferences.

Chronology of Important Events in NCSBCS

November 20, 1967	Governor Knowles holds first organizational NCSBCS meeting in Madison, Wisconsin.
November 20, 1967	National Bureau of Standards becomes tentative Secretariat for NCSBCS.
May 6-7, 1968	First Annual NCSBCS Conference in Washington, DC.
April 20, 1970	NBS becomes official Secretariat to NCSBCS.
July 1975	NCSBCS incorporated in Iowa as a non-profit organization.
December 1975	First office set up at the National Bureau of Standards, Gaithersburg, Maryland.
1976	NCSBCS delegate members and staff begin serving as representatives to meetings of private sector, national building code, federal, and public interest organizations. (By 1978, NCSBCS has representatives regularly attending and reporting on meetings of over 50 committees of such national organizations.)

Early proponents of NCSBCS were Ed Estkowski of Wisconsin (President from 1968-70) and Lewis Branscomb of the National Bureau of Standards.

May 1976	U.S. Energy Research and Development Administration awards NCSBCS and model code groups contract to develop model code for energy conservation in new building construction (NCSBCS still performs contract work for the Department of Energy.)
May 1976	U.S. Department of Housing and Urban Development awards NCSBCS contract to monitor the enforcement of the National Mobile Home Construction and Safety Act of 1974. (NCSBCS has served as HUD's monitoring agency since that date.)
September 1976	NCSBCS opens office in McLean, Virginia and is reincorporated in Virginia as a non-profit organization.
October 1976	National Bureau of Standards ceases Secretariat function for NCSBCS, which is replaced with an Agreement of Understanding.
March 1977	NCSBCS serves as Secretariat for National Academy of Code Administration for seven months.
December 1977	NCSBCS services to members expanded to include Legislative Bulletins on state and federal legislation and regulatory actions; coverage of energy and mobile home issues in the NCSBCS newsletter; surveys on seismic safety, security in buildings, state energy regulations, building inspector's salaries, and standards needs; and training programs by the NCSBCS Energy Program staff.
January 1978	National Bureau of Standards and NCSBCS sign Agreement of Understanding outlining future areas of cooperation between the two organizations.
February 1978	U.S. Census Bureau awards contract to NCSBCS to provide monthly mobile home production and shipment data. (NCSBCS continues to provide this data to Census.)
February 1978	First Regional Delegate Meeting held. State delegate members discuss NCSBCS contracts and ways NCSBCS can serve its members.
July 1978	NCSBCS becomes Secretariat to the Association of Major City Building Officials (AMCBO).

February 1980	Executive Branch Agreement signed with the National Governor's Association.
April 1980	First edition of the *Directory of State Building Codes & Regulations* is published.
April 1980	NCSBCS receives HUD grant for Mobile Home Standards review.
April 1980	First National Building Safety Week observance held in Indiana. Since then, observances have been held on a local and statewide basis across the United States.
May 1980	National Building Code tendered to NCSBCS.
August 1980	NCSBCS moves to present address at 481 Carlisle Drive, Herndon, Virginia 22070.
May 1981	AMCBO/NCSBCS symposium on "Legal Issues in Building Code Administration in the 1980s" held and proceedings published.
September 1981	National Bureau of Standards, National Fire Protection Association, and NCSBCS hold "National Symposium on Life Safety in Group Residences."
September 1981	*Model One Stop Permit Process for One and Two Family Dwellings* published.
September 1982	*ANSI A225.1 Manufactured Home Installations* published.

NCSBCS owes a great debt to the National Bureau of Standards who provided secretariat services for the first 10 years. Touring NBS in 1984 are (left to right): Dr. Richard Wright (NBS), Joe Cirillo (RI), John Wenning (WI), Jack Daniel (NE), William Connolly (NJ), Richard Wolfe (AZ), Jack Kerin (CA), William Crumbaker (WA), James Gross (NBS), and Dr. Charles Culver (NBS).

September 1983	*Models of Effective and Efficient State Building Codes Administration for Residential Structures* published.
January 1984	*Directory and Compilation of Technical and Administrative Requirements in Energy Codes for New Building Construction Used within the United States* published.
September 1984	NCSBCS and NBS sponsor "Technical Conference on Computers and Fire Safety."
September 1985	NCSBCS and CABO form task force to study the development of an accreditation board for national testing and certification program for building code enforcement personnel.
March 1986	NCSBCS, NBS, ASCE, and AMCBO release "Model Agreement on the Investigation of Structural Failures" whereby a jurisdiction can call NBS in to investigate a building collapse.
April 1986	NCSBCS sponsors workshop, "Defining Accountability in Future Building Regulations."
April 1986	Industrialized Modular Buildings Administrators Subcommittee formed to develop a state-based reciprocity system for modular buildings. That subcommittee has since evolved into a 21-member task force of industry, government, and consumer interests. NCSBCS serves as Secretariat.
September 1986	NCSBCS sponsors seminar "Building & Fire Official Accountability in Building Construction—Problems and Solutions."
September 1986	NCSBCS and Consumer Product Safety Commission sign Memorandum of Understanding.
January 1987	State Accessibility Officers Committee completes "Model Uniform Scoping Guidelines for Building Code Accessibility Provisions."
March 1987	Task Force of the Federal Manufactured Housing Program releases its report on the strengths and weaknesses of the HUD program for regulating manufactured housing.
March 1987	Task force of NCSBCS, NAHB, CABO, and NFPA release guidelines for model state legislation for the regulation of site-built and modular housing.

Editors's Note: This is just a partial listing of important events in NCSBCS' history. A complete history is being compiled by NCSBCS Historian Del Thurber.

NCSBCS Executive Directors

NCSBCS became a nationally recognized organization under Executive Director Don Pinkerton's strong leadership from 1976-83.

Ken Henke resigned as President of NCSBCS on September 24, 1975 to become the first conference Executive Director. He served in this capacity until March 1, 1976.

- From March 1, 1976 through July 1976, no Executive Director was in place. Delmont C. Thurber served as Interim Coordinator and kept the conference moving with frequent visits to the NCSBCS office at NBS.

- Don Pinkerton became Executive Director on August 1, 1976 and served in that capacity until his retirement in December of 1983. Don is now in business in Winchester, Virginia.

- Robert Wible became the conference Executive Director on January 2, 1984. Bob is the current Executive Director and attributes his success to experience gained while working under his predecessor Don Pinkerton.

Conference Awards

Gene Rowland State Achievement Award
This award is presented to the state which over the course of the conference year takes the greatest number of legislative, executive, or administrative actions towards fulfilling the NCSBCS 13 objectives.

Charles Mahaffey Award
This award is presented to the organizational, associate, or affiliate member who, during the conference year, makes the greatest contribution towards working with the states in fulfilling the NCSBCS 13 objectives.

President's Award
This award is given to an active delegate or state member who has shown outstanding leadership or made significant contributions to the goals and objectives of NCSBCS and, through participation in NCSBCS and other national organizations, enhanced the building codes profession.

NCSBCS Thanks

Debbie Baillargeon
Robert M. Eisenhard
Pat King
Charles T. Mahaffey
Marla McIntyre
Janet Rowland
Delmont C. Thurber
Robert Wible

for their assistance in compiling this brochure.

NCSBCS Statement of Purpose and Current Objectives

Adopted September 11, 1985 in Portland, Maine
Revised September 21, 1988

STATEMENT OF PURPOSE

To cooperate as states with all affected parties to promote the development of an effective building regulatory system to insure the provisions of health, life safety, and welfare. To achieve this purpose, NCSBCS will continue to carry out the following:

CURRENT OBJECTIVES

1. Represent the interests of the 50 states and several territories in the building regulatory process.

2. Eliminate unnecessary barriers to the interstate and intrastate acceptance of new building products, materials, and systems of construction.

3. Encourage the adoption of uniform model codes and standards that have been developed using procedures which provide for participation by representatives of all interested and affected individuals and groups.

4. Provide members with a central information service for building regulatory affairs.

5. Promote the development and use of a uniform, cooperative national system to assess the professional qualifications of building regulatory personnel.

6. Promote the development and use of a uniform, cooperative national educational system for building regulatory enforcement personnel.

7. Promote the development and use of a model regulatory system to provide for accountability in the design, construction, and inspection disciplines in the building construction process.

8. Promote the development, adoption, and use of effective, efficient, and uniform code administration procedures.

9. Enhance public awareness of the building regulatory process.

10. Enhance working relationships between state and local building regulatory officials.

11. Promote the use of NCSBCS scoping guidelines for the *ANSI A117.1-1986 ANSI for Buildings and Facilities--Providing Accessibility and Usability for Physically Handicapped People.*

12. Support a program for uniform interstate acceptance of industrialized/modular buildings and other preassembled building components.

NCS BCS
National Conference of States on Building Codes and Standards, Inc.
481 Carlisle Drive, Herndon, Virginia 22070 (703) 437-0100
Fax: (703) 481-3596

THE YEAR 2000—
NCSBCS GOAL STATEMENT ON BUILDING REGULATIONS

By the Year 2000

Working in coordination with the National Governors' Association and with other governmental and national organizations, NCSBCS should serve as a catalyst to help develop and have in place in this country a building regulatory system (including codes and standards) which is uniform, rational, realistic, cost-effective, and capable of assuring the health, life safety, and welfare of the American people and encouraging America's economic competitiveness in the world marketplace.

Furthermore, to fulfill this goal and the NCSBCS Statement of Purpose and Current Objectives, the NCSBCS members should adequately fund and staff their organization to provide the programs and services necessary to do the following:

1. Help the states work with representatives of all interested and affected parties to determine the elements and structure of such a uniform system.

2. Work with the appropriate organizations and governmental agencies to adopt the proposed uniform system.

3. Help the states to fulfill their responsibilities and role within the proposed uniform system.

NCS BCS
National Conference of States on Building Codes and Standards, Inc.
481 Carlisle Drive, Herndon, Virginia 22070 (703) 437-0100
Fax: (703) 481-3596

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JOHN T. MALDONADO
DIRECTOR
DIVISION OF HOUSING
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DEPARTMENT OF COMMUNITY AFFAIRS
TRENTON, NEW JERSEY

RICK A. BOWELL
EXECUTIVE MANAGER
DIVISION OF GENERAL SERVICES
COLUMBIA, SOUTH CAROLINA

DAN SMITH
ADMINISTRATOR
BUILDING CODES AGENCY
SALEM, OREGON

EXECUTIVE DIRECTOR
ROBERT C. WIBLE

January 25, 1990

The Honorable John Ashcroft
Governor of Missouri
P.O. Box 720
Jefferson City, Missouri 65102

Dear Governor Ashcroft:

The National Conference of States on Building Codes and Standards (NCSBCS) was founded by a group of our nation's governors more than twenty years ago to provide a national forum for discussing issues and concerns on building codes and regulations.

At the heart of our membership are the governor-appointed delegates of each state and U.S. territory. These delegate representatives have the responsibility for administering building codes and promoting public safety interests within their state or territory.

Your state is currently without representation in NCSBCS. The Director of the Division of Manufactured Homes, Edwin Klein, had served as Missouri's delegate to NCSBCS prior to his retirement in June 1989.

So that your state may again benefit from the services of NCSBCS, I respectfully request that you forward to us your nominee's name to represent Missouri in our organization. To assist you in selecting an appropriate individual to serve in this capacity, I have enclosed a copy of our newly-adopted criteria for delegate selection.

If you need any further information regarding this request, please have a member of your staff contact me at (703) 437-0100. Thank you for giving this matter your consideration.

Sincerely,

Robert Wible
Robert C. Wible
Executive Director

RCW:lc
Enclosure

cc: James Phillips, Director, Division of Manufactured Homes

NCSBCS Policy for Delegate Selection

A delegate member shall be:

- **An employee of the state represented who has the broadest range of legal authority and responsibility for the statewide building codes and standards listed below; or**
- **If none of the above are applicable within a given state, a gubernatorial or legislatively-appointed representative to a state board, commission, council, or study commission which possesses legal authority to develop, promulgate, or study promulgation of statewide codes or laws including the broadest range of statewide building codes and standards listed below; or**
- **If none of the above are applicable within a given state, an employee of the state represented who possesses legal responsibilities for one or more of the statewide building codes and standards listed below, provided:**
  - **The employee also best represents all other agencies within that state having legal authority over statewide building codes and standards as listed below and**
  - **The employee can provide the broadest range of input to NCSBCS and provide communication with other state agencies concerning NCSBCS programs.**

Additional Guidance to Determine Appointment

When considering a delegate appointment, preference shall be given in filling that vacancy with individuals meeting the following criteria:

1. *Broadness of Regulatory Authority.* A state regulatory official with general regulatory authority for public and private construction in the state shall have priority in appointment over a state regulatory official with authority solely over publically-owned construction.
2. *Code Areas Regulated.* Preference of appointment shall be given in the following descending order to a state regulatory official with authority over the following code areas:
   - Building
   - Industrialized or Modular Buildings
   - Manufactured Buildings
   - One and Two Family Dwellings
   - Fire
   - Any of the following with no order of preference: Accessibility for the Physically Handicapped, Electrical, Energy Conservation, Mechanical, Plumbing
3. *Ability to Fulfill Delegate Responsibilities.*
4. *Ability of the delegate appointee to fulfill his responsibilities to NCSBCS* by virtue of his active participation which shall include:
   - Over a two-year period, ability to attend at least 50% of the delegate meetings and
   - Make the commitment to pay the state's annual assessment.

The NCSBCS Board of Directors shall, before confirming a designee as a delegate member, authorize NCSBCS staff to obtain the following information from such designee or his appointing authority:

- Copies of the state laws and regulations which authorize the designee to administer or promulgate building codes and standards as listed in number 2 above.
- Copies of the state laws and regulations which give other state agencies authority to administer the building codes and standards listed above, together with the names and addresses of such other agencies

Those states which have not been represented by official delegates or attendees at NCSBCS meetings since December 31, 1989 are subject to this policy. In accordance with this policy the NCSBCS President shall write a letter to the appointing authority of such states (with a copy to the listed delegate) advising him of this policy and requesting him to review the current appointment for whatever action he may feel warranted to ensure active participation by his state in NCSBCS concerns.

The Board of Directors shall make a determination in accordance with this policy on any delegate membership status when a question is raised in writing by a delegate member. This shall include an annual review of the delegate's attendance to determine whether NCSBCS shall discuss the need to seek a new delegate appointment from that state.

9/20/90

NATIONAL GOVERNORS' ASSOCIATION AGREEMENT WITH THE NATIONAL CONFERENCE OF STATES ON BUILDING CODES AND STANDARDS, INC.

Because a close working relationship between the National Conference of States on Building Codes and Standards, Inc. and the National Governors' Association would be mutually beneficial in assuring effective representation of state interests before Congress, the Administration, and relevant federal agencies, and because the policies and programs of associations and organizations representing the executive branch of state government should be consistent with and complementary to those of the Governors, the National Conference of States on Building Codes and Standards, Inc. and the National Governors' Association agree to extend their cooperative agreement based on the following principles and in consideration for recognition by the National Governors' Association as a cooperating association:

1. The National Conference of States on Building Codes and Standards, Inc. will work with and support as necessary the activities of appropriate National Governors' Association standing committees and will provide materials to aid those committees in the development of policy.

2. Policy positions adopted by the National Conference of States on Building Codes and Standards, Inc. will be consistent with policy positions adopted by the National Governors' Association. Hereafter, all proposed National Conference of States on Building Codes and Standards, Inc. policy positions will ordinarily be submitted to the National Governors' Association prior to their adoption. Should the National Conference of States on Building Codes and Standards, Inc. adopt any policy position or maintain any existing policy positions that is inconsistent with the National Governors' Association policy, the policy position will contain language noting the inconsistency.

3. Comments by the National Conference of States on Building Codes and Standards, Inc. on federal regulations will be consistent with the National Governors' Association policy. If any such comments are inconsistent with the National Governors' Association policy, the inconsistency will be noted in the body of comments.

4. The purpose and goals of any grant or contract secured independently by the National Conference of States on Building Codes and Standards, Inc. will be consistent with the National Governors' Association policy.

5. The appropriate National Governors' Association staff director will be notified in advance of any meetings between representatives of the National Conference of States on Building Codes and Standards, Inc. and federal department and agency officials at or above the level of assistant secretary or agency head.

6. All requests for dues increases by the National Conference of States on Building Codes and Standards, Inc. will be submitted to the National Governors' Association Executive Committee for review.

This revised agreement will be in effect for the twelve-month period ending October 31, 1989. The agreement will be reviewed at the end of this year and may be extended for additional periods of time upon approval of both parties.

Ray C. Scheppach
Raymond C. Scheppach
Executive Director
National Governors' Association

Mary Beth Bowman
Mary Beth Bowman
President
National Conference of States on
Building Codes and Standards, Inc.

Deficit Reduction Act of 1984, and the Tax Reform Act of 1986 placed significant restrictions on the program, and there is no need to further restrict the program. Congress must eliminate the provision that "sunsets" the Mortgage Revenue Bond Program on December 31, 1988. The Mortgage Credit Certificate Program, newly authorized by the 1984 act, should remain an optional alternative to, not a mandatory replacement for, the states' use of mortgage revenue bonds. Consideration should be given to utilizing existing public and private programs to operate in tandem with mortgage revenue bonds to reduce home ownership costs for target populations.

In many jurisdictions, the construction of rental housing other than luxury dwellings is economically infeasible without tax-exempt financing. Therefore, Congress should continue to permit state housing finance agencies to issue tax-exempt multifamily housing industrial development bonds. To further reduce finance costs and thus promote affordability for low- and moderate-income tenants, federal guarantees should continue to be available in tandem with tax-exempt bonds for housing.

Federal housing policies should recognize the special needs of rural areas, and the federal commitment to rural housing should remain intact. The Farmers Home Administration should encourage joint federal/state initiatives to develop affordable rural housing.

An explicit federal strategy to avert housing abandonment should be developed. The most effective strategies are likely to be those that combine and target the resources of both federal and state government. Existing federal programs therefore should provide states with flexibility to target them to buildings threatened with abandonment or acquired by government as a result of foreclosure. Expansion of the urban homesteading program and provision to set aside Section 8 units for this purpose should be given priority consideration in developing an overall approach to the problem of abandonment.

Private pension funds, which are federally regulated pursuant to the Employee Retirement Income Security Act, hold approximately $700 billion in assets. Historically, only a small percentage of those assets have been invested in housing. The federal government should carefully consider whether there are any unnecessary regulatory barriers to pension fund investments in residential mortgages.

Manufactured (mobile) homes are an important source of affordable housing to a growing segment of our population. The states' regulatory authority over the design and construction of such homes was federally preempted in 1974, yet the states have retained a vital interest and cooperative role in the federal regulation of these homes by the U.S. Department of Housing and Urban Development. A recently completed state sponsored study reviewed the strengths and weaknesses of the federal manufactured housing construction and safety standards program and found the program wanting in a number of major aspects. The U.S. Congress and HUD should work cooperatively with the states and industry to improve the quality of manufactured housing. In such an effort, HUD should continue to work with the states to reaffirm and strengthen the vital regulatory and administrative roles which the states continue to provide under various aspects of the federal manufactured housing construction and safety standards program.

4.3.3 State Actions Suggested. Forty-nine states have established housing finance agencies that use tax-exempt revenue bonds to meet the home ownership and rental housing needs of low- and moderate-income residents. States are also responsible for overseeing the issuance of mortgage revenue bonds by local units of government and for ensuring that these programs conform with legitimate public purposes. States should continue to assure that this indirect federal subsidy is used in a responsible and effective manner to fill gaps in the private mortgage market. States also should encourage their housing finance agencies to explore and evaluate the uses of the newly authorized Mortgage Credit Certificate Program and the Low-Income Rental Housing Tax Credit.

While federal programs play a significant role in stimulating new condominium construction, regulation of conversion and protection of tenants' interests can be addressed most effectively in response to particular market characteristics at the state and local level. The loss of rental units and displacement of tenants due to condominium conversions are phenomena best regulated at the state level.

As state and local public employee pension funds grow in importance in national capital markets, they are increasingly able to play an important role in housing finance. States should consider using their pension funds to provide mortgages to public employees, shared-equity programs to lower initial down payments in return for a share of eventual capital gains, and direct provision of loans for single-family housing.

NCS BCS National Conference of States on Building Codes and Standards, Inc.
481 Carlisle Drive, Herndon, Virginia 22070 (703) 437-0100

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PHOENIX, ARIZONA

EXECUTIVE DIRECTOR
ROBERT C. WIBLE

September 20, 1985

Mr. James Nistler
Deputy Assistant Secretary
for Single Family Housing
Department of Housing and Urban
Development
451 Seventh St., S. W., Room 9282
Washington, D. C. 20410

Dear Jim:

On behalf of the governor appointed delegates of thirty-two states attending our Eighteenth Annual Conference in Portland, Maine last week, I want to thank you for taking the time on September 9 and 10 to participate in the state's candid sharing of their views on the Federal Manufactured Housing Construction and Safety Standards Program. As the 1985-86 President of the National Conference of States on Building Codes and Standards, Inc. (NCSBCS), I greatly appreciated your acceptance of the request made by the states earlier this year that they meet with you in a public forum in which they could express their concerns and views. The states are especially appreciative of being able to have had the opportunity last week to recommend to you and to the Department ways of further enhancing this federal program which ten years ago preempted state regulatory authority over such structures.

Meeting in General Session on Wednesday, September 11, 1985, the delegates instructed me to write to you not only to thank you for your participation during our annual meeting, but also for the efforts which you have undertaken since becoming Deputy Assistant Secretary, to enhance HUD's enforcement of this important public safety program. As you heard on September 9th, the states have had some significant concerns in this area and are supportive of your efforts to strengthen HUD's enforcement activities.

In recognition of Congress' intent that the preempted states remain, to the fullest extent possible, active participants in this federal regulatory program, our delegates are looking forward to following through on your request that they meet with you more frequently to share their comments and recommendations for ways to help the Department to better ensure that only conforming manufactured homes are being built in this country. To carry out that task, I am pleased to inform you that at the direction of our delegate body, the NCSBCS Board of Directors on September 12th approved the formation of a special state delegate task force which will carry on the dialogue we initiated with you last week. I have asked our Arkansas delegate and member of your National Manufactured Home Advisory Council, Ms. Mary Beth Bowman to chair that body which will report to our NCSBCS Regulatory Affairs Committee. The Task Force has been charged with coordinating state comments to you on the Federal Manufactured Housing Construction and Safety Standards, and only on those procedural, regulatory and statuatory issues related to the HUD program which are of direct concern to the states and their citizens. The task force will not comment on the contract or the day to day activities of HUD's monitoring agent. Any state comments on those aspects of the HUD monitoring program will continue to be communicated directly to the Department by each state.

Ms. Bowman is currently naming the members of her task force and she will be in touch with you in the near future to discuss a possible date and location for the task force's first meeting with you.

Once again on behalf of the States, I want to thank you for listening and caring about our concerns and recommendations on this important regulatory program.

Sincerely,

David M. Hammerman
President, NCSBCS

DMH/pch

cc: Governor Harry Hughes, Maryland
Governor Lamar Alexander
  Chairman National Governors Association
Governor Michael Dukakis, Massachusetts
  Chairman Economic Development
  Technological Innovation Committee,
  National Governors Association
Members of the Staff Advisory Council to the
  Economic Development and Technological
  Innovation Committee
Mary Beth Bowman, Arkansas Delegate,
  Second Vice President, NCSBCS
NCSBCS Delegate Members

NCS BCS
National Conference of States on Building Codes and Standards, Inc.
481 Carlisle Drive, Herndon, Virginia 22070 (703) 437-0100

NCSBCS STATE TASK FORCE ON THE FEDERAL MANUFACTURED HOUSING PROGRAM

Purpose

In recognition that the ongoing communication between the states' public safety officials and HUD officials is vital for a successful implementation of the federal preemptive standards for manufactured (mobile) homes, NCSBCS delegate members have established this oversight task force to review procedures and practices in the federal program and take the lead in coordinating state comments and recommendations to HUD for needed reforms in the procedural, regulatory, and statutory aspects of this program.

Objectives

1. Review (from states' point-of-view) the past ten years of federal preemption in this program and comment on the overall impact of the program on the product and protection of the consumer's interests, and identify existing problems in the federal regulations, rules, and procedures which need to be corrected to strengthen the program.

2. Identify areas of state role and responsibility in the program, assess states fulfillment of those responsibilities, and inform states what their rights and responsibilities are.

3. Establish an information coordination mechanism so states can better understand *all* aspects of this regulatory program.

4. Research and establish a funding mechanism for the task force.

NCS BCS

"FULFILLING THE PUBLIC'S TRUST—TWO YEARS LATER"

March 31, 1989

DON A. REVILLE
Chairman of the NCSBCS State Task Force
on the Federal Manufactured Housing Program
and
Director, Arizona Department of Building
and Fire Safety

FOREWORD

The following pages provide a brief summary of the actions undertaken or being planned to implement the 12 recommendations contained in the NCSBCS State Task Force on the Federal Manufactured Housing Program final report, "Fulfilling the Public's Trust."

Comprised of NCSBCS state governor-appointed delegate members from each of the four regions of the United States, the task force is working to carry out the objectives it set in 1985, and to work cooperatively with federal officials, the states, and representatives from all segments of the nation's manufactured (mobile) housing industry, in addition to implementing each of the final report's 12 recommendations.

More information can be obtained by contacting the task force's Technical Secretary, Robert C. Wible, Executive Director, National Conference of States on Building Codes and Standards, Inc., 481 Carlisle Drive, Herndon, Virginia 22070; (703) 437-0100.

"FULFILLING THE PUBLIC'S TRUST—TWO YEARS LATER"

Recommendation #1

Do not return the nation to the non-uniform regulatory system as it existed before federal preemption—rather work with the current system to correct its deficiencies and raise it to function as it was originally intended.

Actions

- On July 28, 1987, the National Governors' Association adopted the following housing policy supporting the above recommendation and the findings of the NCSBCS State Task Force on the Federal Manufactured Housing Program final report, "Fulfilling the Public's Trust." Since that time, in support of this report and the following NGA policy, NCSBCS members and staff have worked cooperatively to begin to carry out the final report's recommendations.

  > Manufactured (mobile) homes are an important source of affordable housing to a growing segment of our population. The states' regulatory authority over the design and construction of such homes was federally preempted in 1974, yet the states have retained a vital interest and cooperative role in the federal regulation of these homes by the U.S. Department of Housing and Urban Development. A recently completed state sponsored study reviewed the strengths and weaknesses of the Federal Manufactured Housing Construction and Safety Standards Program and found the program wanting in a number of major aspects. The Congress and HUD should work cooperatively with the states and industry to improve the quality of manufactured housing. In such an effort, HUD should with the states to reaffirm and strengthen the vital regulatory and administrative roles which the states continue to provide under various aspects of the Federal Manufactured Housing Construction and Safety Standards Program.

- In December 1987, representatives from NCSBCS, the Manufactured Housing Institute, the National Manufactured Housing Federation, and the private third party agencies formed the Joint State/Industry Council on Manufactured Housing to review the final report's recommendations and to take cooperative action to implement those upon which they agreed. In October 1988, this council issued a report endorsing 11 of the 12 final recommendations.

- At the present time, there appears to be no serious interest in "defederalizing" this program, as was originally perceived in March 1987 when the task force released its report.

Recommendation #2

A uniform national state-based system must be established that promotes the adoption and enforcement of manufactured housing installation standards by state and local units of government. Such a system must also provide for the bonding and licensing of dealers and installers.

Actions

- In the spring of 1988, NCSBCS released an updated edition of the A225.1 standard on the installation of manufactured housing.

- In mid-1988, HUD authorized a major detailed study of the installation problems at the state and local levels. NCSBCS issued this study in February 1989.

- In September 1988 at the NCSBCS 21st Annual Conference, the delegates passed a resolution calling upon all states to adopt, administer, and enforce such installation regulations and standards.

- The NCSBCS State Task Force on the Federal Manufactured Housing Program has made the implementation of this recommendation its #1 priority over the next two years. In support of that action, the task force members have met several times with HUD officials to seek program and financial assistance in implementing this recommendation. Cooperative discussions also have been held with manufacturers and with dealers/installers of manufactured housing.

- The State Administrative Agencies (SAAs) expressed to HUD major concerns over problems associated with nonconforming homes on dealer lots from manufacturers which have gone bankrupt. Solutions to some of these concerns lie with the states, while others require both HUD and state cooperative action.

- In 1988, NCSBCS staff conducted training seminars on effective installation of manufactured housing.

Recommendation #3

The Federal Manufactured Housing Construction and Safety Standards must be immediately updated and kept current. Areas needing special attention are condensation, thermal protection, and structural requirements.

Actions

- Since the issuance of the final report, HUD has not updated its Federal Standards in these and in other critical areas. HUD has, however, "privatized" the Federal Standards by involving the Council of American Building Officials and the Manufactured Housing Institute. These two organizations have consensus groups preparing recommended technical updates to the Federal Standards. These updates will then be sent to HUD for a proposed rule change. In addition, HUD has contracted with the U.S. Department of Energy to develop cost-effective energy conservation standards.

- The states acting as SAAs, Design Approval Primary Inspection Agencies (DAPIAs), and Production Inspection Primary Inspection Agencies (IPIAs) in the federal program continue to report to HUD on significant weaknesses in the Federal Standards. Recently, HUD has begun holding cooperative discussions with these agencies and is asking for resolutions to the identified problems.

Recommendation #4

Quality control must be made "Job #1" by industry and by all third party agencies. In that regard, quality control and third party personnel should be tested and certified.

Actions

- Industry representatives are beginning to carry this theme to their members.

- States have found some segments of industry are improving quality while others clearly are not.

- The NCSBCS State Task Force on the Federal Manufactured Housing Program identified testing and certification as an issue for further discussion with HUD and with industry.

- Where appropriate, HUD increased its enforcement action against public and private IPIAs and DAPIAs, causing these participants to pay greater attention to their role in helping to assure that "quality is Job #1."

Recommendation #5

HUD must work with inspection agencies (both private and state) to improve their ability to adequately perform their duties in this program. HUD needs to take prompt enforcement actions.

Actions

- The NCSBCS State Task Force on the Federal Manufactured Housing Program asked HUD for a list of those states whose third party design or in-plant monitoring services (DAPIA and IPIA) require improvement. The task force agreed to provide manpower resources to help such states improve their performance.

- The states continued to report to HUD their concerns over private third party "conflicts of interest" described in the task force's final report. In 1987, HUD issued several regulatory directives to all third parties and published proposed rule change in the Federal Register to eliminate such conflicts.

- In 1988, HUD funded and NCSBCS conducted regional workshops on the Acceptable Quality Level (AQL) System.

- The AQL System was evaluated by HUD, and draft revisions are being made to the system.

- In 1987-88, HUD took more prompt enforcement action on public and private third party agencies. HUD's enforcement actions included removing some third party agencies from plants and collecting money settlements in negotiated agreements with some IPIAs and DAPIAs.

- The needed increase in the federal label fee (from $16 per floor to $24 per floor) was made effective in early 1989, and will help cover HUD costs in taking more effective enforcement actions was made effective in early 1989.

Recommendation #6

HUD should continue its recently initiated testing of manufactured housing components and follow-up on those components that fail.

Action

- HUD continues to fund and to take actions, where warranted, on testing housing components. The states have made informal suggestions to HUD with regard to the products and components needing such scrutiny.

Recommendation #7

The SAA (consumer complaint mechanism) Program needs and is receiving from HUD immediate attention. Greater communication and coordination between HUD and the states are necessary to make the program more effective. The states, for their part, need to fulfill their SAA responsibilities.

Actions

- In late 1987, HUD began providing the states with enhanced technical support for their consumer complaint services. The SAA Guidebook, which was last issued in 1978, was updated and issued to the states.

- In 1987-88, HUD held SAA workshops across the United States. These workshops focused, in part, on implementing various parts of this recommendation. More workshops are scheduled for 1989.

- In 1988, the NCSBCS State Task Force on the Federal Manufactured Housing Program made the support of this recommendation its #2 task for the next two years. Among support activities are the task force's offer to help the state SAAs evaluate and improve their programs, and to help the non-SAA states assume the SAA role. Since many states need to make improvements in their SAA programs, the task force approached HUD to work with the states in finding an appropriate funding mechanism to support the costs of bringing about needed changes.

- A subcommittee of the Joint State/Industry Council on Manufactured Housing is looking at recommending to HUD a new regulatory language in order to clarify current confusions over Subpart I and the "class action" aspects of the federal program.

- HUD's February 1989 increase in the labels fees offers both HUD and the states needed funds to make the SAA system function in accordance with the Housing and Community Development Act of 1974 and with subsequent federal regulations.

Recommendation #3

The states must live up to their responsibilities in the federal program.

Actions

- The NCSBCS State Task Force on the Federal Manufactured Housing Program transmitted to the nation's governors and state legislators copies of the task force's final report. Also, the task force asked for and has received reports from the states as to what specific actions they are taking to improve their respective SAA, IPIA, and/or DAPIA programs.

- The task force targeted this area as its reason to continue functioning. In addition, the task force identified areas needing special assistance and is seeking HUD's financial assistance to help fulfill that purpose. Among the activities being contemplated is an annual "state report card" which could go to the state governors.

Recommendation #9

HUD, the states, and industry must work cooperatively to make the consumer more aware of the importance of proper installation, adequate maintenance, and the benefits and responsibilities of the Federal Manufactured Housing Program.

Actions

- The December 1987 formation of the Joint State/Industry Council on Manufactured Housing was a major step in this direction. The second step was the council's release in October 1988 of a joint report endorsing 11 of the 12 recommendations. Until recently, HUD has been missing from this cooperative forum, as have consumers. Involvement by HUD and consumers should help expand the effectiveness of this body.

- In January 1989, NCSBCS wrote HUD seeking financial assistance in printing and circulating more copies of the MHI/FTC booklet, "How to Buy a Manufactured Home."

- The NCSBCS State Task Force on the Federal Manufactured Housing Program has identified greater consumer awareness or use/maintenance of manufactured housing as a major cooperative effort for industry, the states, and HUD.

Recommendation #10

HUD must improve its communication with Congress and enhance its Biannual Report to Congress on this program.

Action

- The NCSBCS State Task Force on the Federal Manufactured Housing Program has communicated this need directly to Congress and to HUD. It is anticipated that the next Biannual Report will contain more meaningful data and information on operation of the federal program.

Recommendation #11

Any effective coalition and working partnership of the manufactured housing industry; consumers; and federal, state, and local officials should evaluate and implement improvements to the Federal Manufactured Housing Program.

Action

- This is precisely the function that has been undertaken by the Joint State/Industry Council on Manufactured Housing, which has two task forces looking into various aspects of HUD's existing rules and regulations. Some of the recommendations may come forward in late 1989.

Recommendation #12

Congress should hold oversight hearings on the Federal Manufactured Housing Program.

Action

- In 1987 and 1988, the NCSBCS State Task Force on the Federal Manufactured Housing Program wrote to and met with appropriate members of the U.S. House of Representatives and U.S. Senate concerning the contents of the task force's final report. To date, Congress has not deemed it useful to hold such hearings.

Where Do We Go From Here?

Just as "Fulfilling the Public's Trust" closed by asking this question, so to does this update. Each of the responsible parties in the federal program, Congress, HUD, the states and their governors and legislatures, consumers, and suppliers should review this summary of recent actions and evaluate just what it has contributed towards its implementation. All of us have much to do to hold up our responsibilities in "Fulfilling the Public's Trust." For our part, the state task force has pledged to concentrate its resources on strengthening the ability of the state governments to fulfill their substantial responsibilities to the consumers of manufactured housing.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

APR 28 1989

Mr. Don A. Reville, Chairman
NCSBCS State Task Force on the Federal
Manufactured Housing Program
NCSBCS, Inc.
481 Carlisle Drive
Herndon, VA 22070

Dear Mr. Reville:

Thank you for your letter of April 6, 1989, to Secretary Kemp, forwarding your update on the progress made implementing the recommendations in the NCSBCS report "Fulfilling the Public's Trust." It has been referred to this Office for response.

As you know, our staff has thoroughly reviewed the recommendations in and your update on this report. We agree that while much has been accomplished, more needs to be done. The keys to future accomplishments are education and cooperative effort. HUD requested this report in an effort to become better educated on where the shortcomings were in the Federal program to better target our activities. Interestingly, while it helped direct HUD's mission, it also identified areas where the States and manufacturers needed to focus more attention. In short, it takes the cooperative efforts of all the segments of this industry to bring about appropriate and lasting change.

We at HUD want to thank you, Mary Beth Bowman, and the NCSBCS State Task Force for your efforts. We also will make every effort to cooperatively work toward resolutions of the problems identified. To that end, we will actively participate in the NCSBCS State Task Force whenever possible and look forward to our future cooperatively gained accomplishments.

Sincerely,

Stephen A. Martin
Acting Deputy Assistant Secretary
for Single Family Housing

Joint State/Industry Council
On Manufactured Housing

Manufactured Housing Institute

National Conference of States
on Building Codes and Standards, Inc.

October 28, 1988

The Honorable Henry Gonzalez
Chairman, Subcommittee on Housing
and Community Development
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Gonzalez:

The National Conference of States on Building Codes and Standards, Inc. (NCSBCS) and the Manufactured Housing Institute (MHI) are pleased to provide you with this copy of the first consensus report of the Joint State/Industry Council on Manufactured Housing.

A year ago MHI and NCSBCS formed a Joint State/Industry Council, to assure the continued availability of safe and affordable housing in the United States by working cooperatively as states and industry.

During the past year, the council reviewed the 1987 final report of the NCSBSC State Task force on the Federal Manufactured Housing Program and generally supports 11 of the 12 recommendations. In addition, it has formulated recommendations pertaining to the future regulatory system for manufactured housing, as well as enhancement of the manufactured housing industry.

The states and the industry have called upon the Department of Housing and Urban Development (HUD) to work with us to improve the current regulatory program for manufactured housing to correct its deficiencies and raise it to the level originally intended by Congress and the President. In addition to the enclosed report, the Joint Council has undertaken a review of the Federal Manufactured Home Procedural and Enforcement Regulations. In the near future we will forward to you a number of recommended revisions to those recommendations.

Secretariat ▪ 1745 Jefferson Davis Highway, Suite 511 ▪ Arlington, VA 22202 ▪ Tele: (703) 979-6620
NCSBCS ▪ (703) 437-0100

Page 2 October 28, 1988

We welcome your comments regarding the consensus report and any other thoughts you might have that would enhance the Federal Manufactured Housing Program.

Sincerely,

Robert Wible
Executive Director
NCSBCS

Jerry C. Connors
President
MHI

RW:JCC:dms

Enclosure

cc: The Honorable Marge Roukema and Members of House Subcommittee on Housing and Community Development

JOINT STATE/INDUSTRY COUNCIL ON MANUFACTURED HOUSING
1745 Jefferson Davis Highway, Suite 511
Arlington, Virginia 22202

CONSENSUS REPORT

Joint Council Views on the Recommendations of the NCSBCS State Task Force on the Federal Manufactured Housing Program.

October 5, 1988

Joint State/Industry Council on Manufactured Housing Consensus Report Regarding the Twelve NCSBCS Recommendations:

On October 16, 1987, a group of NCSBCS state representatives joined members of the Manufactured Housing Institute to form the Joint State/Industry Council on Manufactured Housing. The council's stated purpose is to assure the continued availability of safe and affordable housing in the United States by working cooperatively as states and industry to:

1. Review, discuss and propose a plan of implementation of appropriate recommendations contained in the final report "Fulfilling the Public's Trust" of the NCSBCS State Task Force on the Federal Manufactured Housing Program.[1]

2. Review, discuss and make recommendations pertaining to the future regulatory system for manufactured housing and enhancement of the manufactured housing industry.

Subsequently, the council held four meetings between December 1987 and September 1988. Its current membership is at enclosure 2.

The council has reviewed and discussed the 12 NCSBCS state task force recommendations and presents the following compendium of views on each issue.

Recommendation #1

NCSBCS: Do not return the nation to the non-uniform regulatory system as it existed before federal preemption--rather work with the current system to correct its deficiencies and raise it to function as it was originally intended.

JOINT COUNCIL: The council agrees that HUD should not return the nation to the non-uniform regulatory system as it existed before federal preemption--rather work with the current system to correct its deficiences and raise it to function as it was originally intended. The department should focus on several deficiences outlined below, and to the maximum extent feasible, provide even-handed enforcement of all program participants, including manufacturers, retailers, primary inspection agencies, and state administrative agencies. The department should implement changes to the Manufactured Home Procedural and Enforcement Regulations as proposed by the joint council.

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[1] On March 12, 1987 the NCSBCS State Task Force on the Federal Manufactured Housing Program released its final report after 18 months of work. The executive summary is at enclosure 1. Included are 12 major recommendations offered by the task force to streamline and improve the program.

Recommendation #2

NCSBCS: A uniform national state-based system must be established that promotes the adoption and enforcement of manufactured housing installation standards by state and local units of government. Such a system must also provide for the bonding and licensing of dealers and installers.

JOINT COUNCIL: A uniform national state-based system must be established that promotes the adoption and enforcement of manufactured housing installation standards by state and local units of government. States should adopt NCSBCS standard A225.1-1987 which specifies that the manufactured home foundation system be constructed in accordance with the manufacturer's installation instructions, supplemented by the requirements of A225.1, or the local building code having jurisdiction or, in the absence of a local code, with a recognized model building code. The state-based system should provide for licensing of retailers and installers, and a recovery system for consumers.

Recommendation #3

NCSBCS: The Federal Manufactured Housing Construction and Safety Standards must be immediately updated and kept current. Areas needing special attention are condensation, thermal protection, and structural requirements.

JOINT COUNCIL: The Federal Manufactured Home Construction and Safety Standards (MHCSS) must be periodically updated to provide a safe dwelling and maintain a balance between affordability and durability in home construction. The council acknowledges the establishment of the MHI MHCSS Consensus Committee and supports its important work, noting that the consensus committee plans to make recommendations to HUD on an annual basis. By setting a streamlined yearly-review-cycle, the department should keep the standards current.

Recommendation #4

NCSBCS: Quality control must be made "Job #1" by industry and by all third party agencies. In that regard, quality control, and third party personnel should be tested and certified.

JOINT COUNCIL: Quality control must be "Job #1" by industry and by all third party agencies. In that regard, quality control, monitoring and third party personnel should be trained and qualified.

Recommendation #5

NCSBCS: HUD must work with inspection agencies (both private and state) to improve their ability to adequately perform their duties in this program. HUD needs to take prompt enforcement actions.

JOINT COUNCIL: HUD must work with primary inspection agencies (PIA), both private and state, to improve their ability to adequately perform their duties in this program. HUD needs to take prompt enforcement actions, to ensure even enforcement of the work of all PIA. HUD should work more closely with the third party agencies, and not rely solely on the auditing by the monitoring contractor.

Recommendation #6

NCSBCS: HUD should continue its recently initiated testing of manufactured housing components and follow-up on those components that fail.

JOINT COUNCIL: As an alternative to the procedure currently followed by HUD to test manufactured home components, the department should monitor independent laboratories certified testing. HUD should publish and use consistent protocols that reflect generally accepted engineering practice, and should also employ independent testing agencies. When deficiences are discovered, enforcement actions should be prospective except for deficiences found to be life threatening.

Recommendation #7

NCSBCS: The SAA (consumer complaint mechanism) Program needs and is receiving from HUD immediate attention. Greater communication and coordination between HUD and the states are necessary to make the program more effective. The states, for their part, need to fulfill their SAA responsibilities.

JOINT COUNCIL: The SAA (consumer complaint mechanism) Program needs and is receiving from HUD immediate attention. Greater communication and coordination between HUD and the states are necessary to make the program more effective. The states, for their part, need to fulfill their SAA responsibilities.

Recommendation #8

NCSBCS: The states must live up to all their responsibilities in the federal program.

JOINT COUNCIL: The states should perform all their responsibilities in the federal program. The key is performance in accordance with their HUD accepted state plans.

Recommendation #9

NCSBCS: HUD, the states, and industry must work cooperatively to make the consumer more aware of the importance of proper installation, adequate maintenance, and the benefits and responsibilities of the Federal Manufactured Housing Program.

JOINT COUNCIL: HUD, the states, and industry must work cooperatively to make the consumer more aware of the importance of proper installation, adequate home maintenance, and the benefits and responsibilities of the federal manufactured housing program. The department should cooperate with industry in funding the MHI phamphlet "How to Buy a Manufactured Home".

Recommendation #10

NCSBCS: HUD must improve its communication with Congress and enhance its biannual report to Congress on this program.

JOINT COUNCIL: It is recommended that HUD improve its communication with Congress and enhance its biannual report to Congress on this program. As an expression of openness and cooperation with the department, state and industry members of the council would be pleased to assist the department by reviewing its draft biannual reports.

Recommendation #11

NCSBCS: An effective coalition and working partnership of the manufactured housing industry; consumers; and federal, state, and local officials should evaluate and implement improvements to the Federal Manufactured Housing Program.

JOINT COUNCIL: An effective coalition and working partnership of the manufactured housing industry; consumers; and federal, state, and local officials should evaluate and implement improvements to the Federal Manufactured Housing Program.

Recommendation #12

NCSBCS: Congress should hold oversight hearings on the Federal Manufactured Housing Program.

JOINT COUNCIL: Congress should give adequate opportunity for the department, the states, industry, and the primary inspection agencies through a cooperative effort to improve the Federal Manufactured Home Program. Consequently, at this time the council does not endorse congressional oversight hearings.

EXECUTIVE SUMMARY

"Fulfilling the Public's Trust"

Thirteen years ago, state regulatory authority over the design and construction of manufactured (mobile) homes was preempted by the United States Congress. Since then the states have participated together with the manufactured housing industry in the Federal Manufactured Housing Construction and Safety Standards Program administered by the U.S. Department of Housing and Urban Development (HUD).

In 1985, the states, with encouragement from HUD, formed a special task force to review the performance of that federal preemptive program and make recommendations for correcting any deficiencies which they found in that system.

After 18 months of work, the NCSBCS State Task Force on the Federal Manufactured Housing Program presents in this Final Report a portrait of a federal program which was well designed, but which has some significant shortcomings in its implementation. These shortcomings are the responsibility of all of the parties to the federal program: the states, HUD, third party agencies, manufacturers, dealers, installers, consumers, and to a certain degree Congress which retains oversight responsibility for the Federal Act.

In describing these areas where the federal program has fallen short of fulfilling its mandate, the task force offers a wide range of recommendations for the states, Congress, HUD, third party agencies, manufacturers, dealers, and consumers.

The major recommendations offered by the task force to streamline and enable the Federal Manufactured Housing Construction and Safety Standards Program to help industry fulfill that purpose are as follows:

Recommendation #1

Do not return the nation to the non-uniform regulatory system as it existed before federal preemption--rather work with the current system to correct its deficiencies and raise it to function as it was originally intended.

Recommendation #2

A uniform national state-based system must be established that promotes the adoption and enforcement of manufactured housing installation standards by state and local units of government. Such a system must also provide for the bonding and licensing of dealers and installers.

Recommendation #3

The Federal Manufactured Housing Construction and Safety Standards must be immediately updated and kept current. Areas needing special attention are condensation, thermal protection, and structural requirements.

Recommendation #4

Quality control must be made "Job #1" by industry and by all third party agencies. In that regard, quality control and third party personnel should be tested and certified.

Recommendation #5

HUD must work with inspection agencies (both private and state) to improve their ability to adequately perform their duties in this program. HUD needs to take prompt enforcement actions.

Recommendation #6

HUD should continue its recently initiated testing of manufactured housing components and follow-up on those components that fail.

Recommendation #7

The SAA (consumer complaint mechanism) Program needs and is receiving from HUD immediate attention. Greater communication and coordination between HUD and the states are necessary to make the program more effective. The states, for their part, need to fulfill their SAA responsibilities.

Recommendation #8

The states must live up to all their responsibilities in the federal program.

Recommendation #9

HUD, the states, and industry must work cooperatively to make the consumer more aware of the importance of proper installation, adequate maintenance, and the benefits and responsibilities of the Federal Manufactured Housing Program.

Recommendation #10

HUD must improve its communication with Congress and enhance its Biannual Report to Congress on this program.

Recommendation #11

An effective coalition and working partnership of the manufactured housing industry; consumers; and federal, state, and local officials should evaluate and implement improvements to the Federal Manufactured Housing Program.

Recommendation #12

Congress should hold oversight hearings on the Federal Manufactured Housing Program.

The task force concludes its report by noting that "each of these important shortcomings are correctable. The federal program has demonstrated that safe, durable, and affordable homes can be manufactured, sold, and sited in all areas of the United States. The problems which do exist can be resolved without costly new regulations, programs, or expensive changes to the federal law, regulations, and standards. The most significant factor required to bring this about; however, is a sincere commitment by government (federal, state, and local) and industry to work cooperatively in the public interest."

The task force looks forward to working with each of the participants in the federal program in evaluating and implementing the recommendations contained in this report. Together, we believe we can fulfill the nation's trust and assist the nation's manufactured housing industry in providing safe, decent, and affordable housing.

MEMBERS OF THE JOINT STATE/INDUSTRY COUNCIL ON MANUFACTURED HOUSING

States

Mary Beth Bowman - State of Arkansas, NCSBCS
John Maldonado - State of Colorado, NCSBCS
David Preble - State of Maine, NCSBCS
Richard Hauck - State of Minnesota, NCSBCS

Manufacturers

Glenn Kummer - Fleetwood Enterprises, Inc.
Fred Huckvale - Guerdon Industries, Inc.
Sam Weidner - Patriot Homes, Inc.
Nicholas St. George - Oakwood Homes Corporation

Third Party Agencies

Private Third Party - Tom Arnold, T. R. Arnold & Associates
- Ray Tucker, RADCO (alternate)
Public Third Party - Jack Daniel, State of Nebraska, NCSBCS

Dealers

Sam Falwell - London Squire Homes
Robert Glasse - Aetna Mobile Homes

State Administrative Agency

Don Reville - State of Arizona, NCSBCS

Staff

Jerry Connors - MHI
Dan Gilligan - NMHF
Bob Wible - NCSBCS

Information Addressee

Leonard G. Wehrman - National Mobile/Manufactured Home Owners Foundation

April 20, 1988

Enclosure 2

NCSBCS National Conference of States on Building Codes and Standards, Inc.
1970 Chain Bridge Road, McLean, Virginia 22101 (703) 790-5750

POLICY

No. 8/27/71-1
Washington, DC

Subject: Intrastate and Interstate Acceptance of Manufactured Buildings

It was agreed that the Executive Committee recommend that the states assume the initiative and provide a leadership role in solving some of the national problems on the intrastate and interstate acceptance of manufactured buildings which is a pressing national need affecting the codes and standards now being implemented by cities, states and counties.

NCSBCS WAS FORMED TO STRENGTHEN AND SUPPORT STATE BUILDING REGULATORY SERVICES AND TO MAINTAIN THE STATE ROLE IN THE AMERICAN FEDERAL SYSTEM. NCSBCS ASSISTS THE STATES IN IMPROVING THEIR LEGISLATIVE, ADMINISTRATIVE AND JUDICIAL PRACTICES REGARDING BUILDING REGULATIONS; PROMOTES STATE-LOCAL AND INTERSTATE COOPERATION; INVOLVES ALL SEGMENTS OF THE BUILDING COMMUNITY; AND FACILITATES FEDERAL-STATE RELATIONS.

APPENDIX B

MODEL
RULES AND REGULATIONS
FOR THE
MANUFACTURED BUILDING ACT

NATIONAL CONFERENCE OF STATES ON BUILDING CODES AND STANDARDS
NATIONAL ASSOCIATION OF BUILDING MANUFACTURERS
BUILDING OFFICIALS AND CODE ADMINISTRATORS INTERNATIONAL, INC.
INTERNATIONAL CONFERENCE OF BUILDING OFFICIALS
SOUTHERN BUILDING CODE CONGRESS
U.S. DEPARTMENT OF COMMERCE
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

"This document has not undergone legal review, nor has it been approved by any of the parties participating in the drafting of it."

DRAFT: 10/27/72

MODEL

RULES AND REGULATIONS
FOR THE
MANUFACTURED BUILDING ACT

FOREWORD

Objective. The objective of the Model Act and these Model Rules and Regulations is to create intra-state and inter-state conditions which will facilitate the production and utilization of manufactured buildings and building components while assuring code compliance of such construction, use of new technology, techniques and materials, and uniform practices for institutional accreditation and building system certification practices.

Purpose. The purpose of this model document is to provide rules and regulations pursuant to Section 5 of the Model Manufactured Building Act. After adoption by the Building Code Council, it is the responsibility of the Administrative Agency to promulgate, administer and enforce these rules and regulations.

Research and Standards Development. Since these rules and regulations have been developed during a period in which new concepts and rapid changes are being introduced in state regulatory programs pertaining to manufactured buildings, it is important that the Administrative Agency endeavor to maintain the rules and regulations current with the state-of-the-art. At the present time related research programs are being conducted by various state and federal agencies and other institutions pertaining to the evaluation and regulation of manufactured buildings. When new national consensus standards are developed from the results of these research programs, the Administrative Agency should recommend such standards for adoption and revise the related sections of these rules and regulations.

Evaluation and Inspection Agencies. These rules and regulations were developed to have sufficient flexibility to allow a state the maximum of administrative latitude in the structuring of its evaluation and inspection programs. At the time of the development of this document, the state-of-the-art in the inspection and evaluation areas has involved two systems--the use of independent third party agencies, and the development of state-based programs utilizing state governmental personnel. As written, these rules and regulations are applicable to either system. It is recommended that, in the consideration of these Rules and Regulations, that serious consideration be given to the use of independent third party agencies to fulfill the evaluation and inspection functions under the control of the Administrative Agency.

REPRINTED FROM

1974 SUGGESTED STATE LEGISLATION

VOLUME XXXIII

MOBILE HOME ACT

Developed by
The Committee on Suggested State Legislation

The Council of State Governments
Iron Works Pike
Lexington, Kentucky 40511

Mobile Home Act

With the growth of a nationwide market for many types of housing products, including mobile homes, and regional markets for others, a uniform and comprehensive approach to regulation of such products has become highly desirable. The Mobile Home Act and two companion bills, the Manufactured Building Act and the State Building Code Act, respond to this need through state rather than federal action by promoting intra- and interstate uniformity of regulation and interstate reciprocal acceptance of building products. This Act represents a synthesis of the experience of federal, state and local governments in regulating construction to enable the States to better protect the public health, safety and welfare. The three Acts are written in a manner permitting them to be administered by a single state agency and a single building code council if a State enacts any two of them, or all three. If a State enacts but one of them, each Act is complete and may be administered independently.

The basic regulatory scheme of the Mobile Home Act is as follows: (1) a manufacturer submits to the state agency or to an independent third party approved by the State the plans, specifications and other necessary documentation for the mobile homes which he intends to produce; (2) if these are approved as complying with the law, either the state agency or an independent third party approved by the State will inspect the actual mobile homes as they are being produced; (3) the compliance of a mobile home with the law is indicated by a state-approved label attached at the factory; and (4) local enforcement agencies inspect such units upon installation to determine whether they are correctly installed.[1]

The Mobile Home Act was drafted by representatives of the National Conference of States on Building Codes and Standards; the Mobile Home Industry; the International Conference of Building Officials, Inc.; Building Officials and Code Administrators International, Inc.; and the Southern Building Code Congress, with assistance by the U.S. Department of Commerce and the U.S. Department of Housing and Urban Development. It was sponsored for publication by the National Conference of States on Building Codes and Standards, a cooperating member of the Council of State Governments.

Suggested Legislation

(Title, enacting clause, etc.)

Section 1. [*Short Title.*] This Act may be cited as the [State] Mobile Home Act.

Section 2. [*Legislative Findings and Intent.*] [Note: Each State should write its own legislative findings to meet the individual conditi following are suggested possibilities:]

---

[1] A section-by-section analysis of the Act, prepared by the drafting group, has been distributed to

[Conditions exist in this State which create a shortage of dec and sanitary housing. The production and utilization of mobile h the use of new and improved technologies, techniques, and mat increase the available supply of housing at prices which most re this State can afford.]

[Uniformity of standards governing mobile homes and unif procedures for enforcing standards throughout the Nation and are matters of nationwide and statewide interest and concern in formity would increase the efficiency of the mobile home ind further assure the safety of its products. The necessity for unif increased because mobile homes may be moved from jurisdicti risdiction.]

[The production and utilization of mobile homes and the us technologies, techniques, and materials are enhanced by the u and application of uniform standards and uniform procedure forcing the standards within this State, and would be further enh widespread reliance upon uniform and reasonable material spec and the use of performance criteria.]

[Mobile homes, because of the manner of their construction, and use, like other finished products with concealed vital p present hazards to health and safety unless properly manufactur mobile homes may contain hazardous defects not readily asce when inspected by purchasers or by local enforcement agencies. islature intends, by this Act, to provide protection to the publi these possible hazards.]

[The Legislature intends, by this Act, to create conditions in which will facilitate the production and use of mobile homes an of new technologies, techniques, and materials consistent wit quirements of health, safety, and welfare.]

[The Legislature intends that the administration and enforceme Act shall be within the jurisdiction of a single administrative ag

Section 3. [*Definitions.*] Wherever used or referred to in this terms defined herein have the meanings assigned to them unless a meaning is clearly indicated by the context.

(1) "Administrative agency" means the [agency] which is cha the administration and enforcement of this Act.

(2) "Approved" means approved by the [administrative agen

(3) "Compliance assurance program" means the system, c tation, and methods for assuring that mobile homes, including t ufacture, storage, transportation, assembly, handling, and in conform with this Act and the rules and regulations promulgated thereto.

(4) "Evaluation agency" means an approved

Revised 04/14/88

MODEL RULES AND REGULATIONS
FOR
INDUSTRIALIZED/MODULAR BUILDINGS

Prepared By:

Joint Council on Industrialized/Modular Buildings

Secretariat:

National Conference of States on Building Codes and Standards, Inc.
481 Carlisle Drive
Herndon, Virginia 22070
(703) 437-0100

Revised 04/14/88

TABLE OF CONTENTS

Page

FOREWORD....................1

PART I: PURPOSE, OBJECTIVE, AND SCOPE....................1
Section 1: Purpose....................1
Section 2: Objective....................1
Section 3: Scope....................1

PART II: DEFINITIONS....................3

PART III: STANDARDS....................6
Section 1: Standards, Specifications, and Requirements Adopted..6
Section 2: Amendments....................7

PART IV: ADMINISTRATION AND ENFORCEMENT....................9
Section 1: Enforcement Responsibility....................9
Section 2: Approvals of Building Systems and Compliance Assurance Programs....................9
Section 3: Certification....................13
Section 4: Inspections By [Administrative Agency] or Its Agent....................20
Section 5: Local Enforcement Agency Procedures and Inspections....................21
Section 6: Fees....................24
Section 7: Notification of Changes in Name, Address, Ownership, or Location....................25
Section 8: Proprietary Information....................26

PART V: REQUIREMENTS FOR SUBMISSION OF COMPLIANCE ASSURANCE PROGRAMS....27
Section 1: Compliance Assurance Programs....................27
Section 2: Compliance Assurance Documents....................27
Section 3: Building Systems Documents....................27
Section 4: Production Quality Control Program....................31
Section 5: On-Site Installation Instructions....................33

PART VI: APPROVAL OF EVALUATION AND INSPECTION AGENCIES....................34
Section 1: Requirements for Submission....................34
Section 2: Procedures for Approving and Delegating....................36
Section 3: Continued Approval of Evaluation and Inspection Agencies....................37
Section 4: Suspension and Revocation....................38

PART VII: RECIPROCITY....................40
Section 1: Procedures for Granting or Refusing Reciprocity to Another Jurisdiction....................40
Section 2: Procedures for Reciprocally Certifying Industrialized/Modular Buildings or Building Components....................41
Section 3: Suspension and Revocation....................41

PART VIII: APPEALS....................42
Section 1: Application for Appeal....................42
Section 2: Hearings and Hearing Notices....................43
Section 3: Conduct of Hearings....................43
Section 4: Decisions....................44

Revised 12/03/87

FOREWORD

Industrialized/modular buildings, which are built in a factory and sited on approved foundations, are a growing segment of the nation's affordable housing and commercial building stock. These structures are frequently manufactured in one state and sited in another. The regulation of such structures varies from state to state and locality to locality, and imposes confusing and costly burdens on state and local building officials, the industrialized/modular buildings industry, and the consumer. Currently, manufacturing facilities must undergo numerous inspections and build to the codes and administrative requirements of different jurisdictions, while state governments must inspect plants in more than one state. This costly and duplicative regulation ultimately costs the consumer more and restricts market access and use of new technologies.

To resolve these problems, representatives of each of the groups involved in and affected by the regulation of industrialized/modular buildings, including the states, manufacturers, evaluation and inspection agencies, and consumer/general interest groups, began meeting in 1987 and formed the Joint Council on Industrialized/Modular Buildings. It was agreed that uniform rules and regulations should be developed that would provide the states with an acceptable assurance of code compliance. Each of these groups chose its representatives on the Joint Council by open elections, and the membership is divided such that no one interest group has a controlling voice.

The Joint Council developed the rules and regulations provided herein by reviewing and updating the Model Rules and Regulations that were originally developed in 1974, in conjunction with the Model Manufactured Building Act, by the National Conference of States on Building Codes and Standards, Inc., the National Association of Building Manufacturers, the U.S. Department of Commerce, the U.S. Department of Housing and Urban Development, and the model building code organizations.

Revised 12/03/87

Goals

Among the goals of the Joint Council on Industrialized/Modular Buildings in developing these model rules and regulations were:

(1) To promote the use of new technologies, techniques, and materials.

(2) To minimize the financial burdens involved in the construction and regulation of industrialized/modular buildings.

(3) To promote reciprocity between the states by removing the administrative barriers to the creation and maintenance of reciprocity agreements.

(4) To promote the availability of safe, decent, and affordable housing and other building occupancies.

To achieve these goals, the Joint Council recommends that the states adopt these rules and regulations without amendments, and change them in the future only in concert with other states through the coordination of the Joint Council on Industrialized/Modular Buildings and the Council of States on Industrialized Housing and Buildings.

NCS BCS A225.1
Manufactured Home Installations
1987

Price: $25.00

NCS BCS

National Conference of States on Building Codes and Standards, Inc.
481 Carlisle Drive, Herndon, Virginia 22070

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NCSBCS Standard for

Manufactured Home Installations

(Manufactured Home Sites, Communities, and Set-ups)

NCSBCS A225.1-1987

1987 Edition of NCSBCS A225.1

This edition of *NCSBCS Standard for Manufactured Home Installations (Manufactured Home Sites, Communities, and Set-ups)* was prepared by the National Conference of States on Building Codes and Standards, Inc. (NCSBCS) Committee on Manufactured Home Installations (Manufactured Home Sites, Communities, and Set-ups). It was approved by the NCSBCS Standards and Evaluation Committee at the September 14, 1987 Annual Meeting of the Conference. Prior to approval, the document had been submitted to public review and comment within NCSBCS. All public comments were resolved and this document has been submitted to ANSI for its separate approval. However, under the NCSBCS procedures, the NCSBCS Standards and Evaluation Committee approval of September 14, 1987 is the effective date for this standard as an NCSBCS standard. This edition supersedes all previous editions.

NCSBCS Committee on Manufactured Home Installations

(Manufactured Home Sites, Communities, and Set-ups)

James Bond, Chairman
Standards, Codes and Plans Manager
State of Arizona

Ashok Goswami, Secretary
National Conference of States on Building Codes and Standards, Inc.

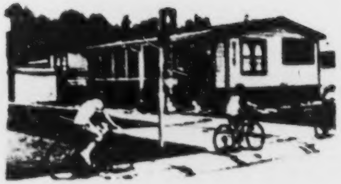
Chris Anderson, State of California
Richard Best, National Fire Protection Association
Mary Beth Bowman, State of Arkansas
Jerry Brosius, P.E., NTA, Inc.
Walter Burke, U.S. Veterans Administration (represented by Lester Harris)
Sid Cavanaugh, International Association of Plumbing & Mechanical Officials
Don Fairman, U.S. Department of Housing and Urban Development (non-voting)
Earl Ferguson, Compliance Systems Publications, Inc.
Dan Gilligan, National Manufactured Housing Federation
Richard Hauck, State of Minnesota
Kenneth Holt, Center for Disease Control
Donald Kiselewski, P.E.
Norman Latter, International Association of Plumbing & Mechanical Officials
Curtis McIver, Commonwealth of Virginia
Henry Omson, Avalon Associates
John Sims, Masonite Corp.
Owen Tharrington, Jr., North Carolina State Administrative Agency
Frank Walter, Manufactured Housing Institute
Vince Wanzek, Fleetwood Enterprises
Len Wehrman, National Mobile/Manufactured Home Owners Foundation

YOU ARE INVITED...

1989 - MANUFACTURED HOME INSPECTOR TRAINING SEMINAR -

a refresher course with an emphasis on

- Quality control to reduce consumer complaints
- Common non-conformances
- Electrical systems



A technical seminar on inspection of manufactured homes for compliance with the federal standards and manufacturer's quality control program.

Presented by:
National Conference of States on
Building Codes and Standards
under contract with
The Department of Housing
and Urban Development

Instruction Personnel

Shyam Choudhary, P.E. - Assistant Director and Chief Engineer. Mr. Choudhary has Masters degrees in both civil engineering and public and business administration. He has 10 years experience as a structural engineer and 10 years with the HUD Manufactured Housing Program.

Richard P. St. Onge - Manager of Inspection and Training Services. Mr. St. Onge has Bachelor of Science degrees in agriculture and fire protection. He has 10 years experience in project engineering inspection and fire and safety code compliance for health care facilities. In addition, he has conducted in-plant audits in the HUD Manufactured Housing Program for 10 years. Mr. St. Onge is responsible for the development and revisions of the AOL Audit Guidebook.

Paul Hancher - Staff Engineer. Mr. Hancher has a Bachelor of Science degree in electrical engineering. He has 2 years of experience in the HUD Manufactured Housing Program.

John "Jack" Pendleton - Field Engineer. Mr. Pendleton has a Bachelor of Arts degree in geology. He has five years of experience in on-site structural engineering evaluation of bridges. In addition, he has six years experience in the HUD Manufactured Housing Program in conducting in-plant audits.

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NCSBCS
481 Carlisle Drive
Herndon, Virginia 22070

Background

"Manufactured Home Inspector Training Seminars" are being presented by NCSBCS for IPIAs and manufacturers.

All IPIA inspectors and supervisors are invited. There will be no charge to IPIA staff for registration fees, and training material cost. However, the IPIA agencies will be responsible for travel, hotel, and food expenses for their staff except NCSBCS will reimburse hotel and food expense to a select number of IPIA inspectors for each agency. NCSBCS will coordinate registration of IPIA staff with IPIA agencies.

Manufacturer's quality control or engineering personnel are also invited. Their registration will be processed on a "first come first serve" basis at each location. Manufacturer's personnel will pay a nominal charge of $60 to cover cost of training material and will be responsible for their travel and per diem expenses.

All participants will be expected to complete a home study course and test to receive a certificate of successful completion.

> **The test results will not be used for monitoring purposes. This program is not intended to be an "inspector certification program."**

How can you benefit by attending the seminar?

This seminar will help you to:

- **Improve knowledge and familiarity with federal standards and regulations.**
- **Learn how to apply the standards during inspection of homes in the plant. (emphasis on electrical systems)**
- **Review methods of monitoring manufacturer's quality control programs.**
- **Learn how improper design or construction cause consumer complaints**
- **Develop better communication and team effort.**

Training Method

This seminar is a two-part program: "Home Study Course" and "Two-day Seminar."

The "Home Study Course" will prepare participants for the seminar and help them recognize the standards requirements that they need to learn or discuss during the seminar. Prior to attending the seminar, participants should devote 10 to 16 hours to reviewing the home study material and completing the 250 question workbook. The home study material will include federal standards and regulations, NCSBCS AQL Audit Guidebook, and National Electric Code. The "Home Study Course" will be sent to registered participants three or more weeks prior to the seminar date. The participants will be required to bring completed questionnaires to the seminar for evaluation.

The "Two-day Seminar" is a 16 hour intensive training program. It will be primarily based on federal standards. Seminar instructors will use the AQL Audit Guidebook, overheads, slides, and a workbook to discuss technical issues.

In the evening, NCSBCS engineers and management staff will be available to answer individual technical and procedural questions from the participants.

At the conclusion of each seminar, participants will be given a short test. The test will be based on material from home study course and other issues discussed during the seminar.

Registration

Upon receipt of the attached form, NCSBCS will forward confirmation of registration, study material (including the AQL Audit Guidebook), agenda, and Hotel information. If space is not available, NCSBCS will contact the applicant and discuss alternate locations.

IPIA inspector registration forms should be completed by IPIA headquarters. NCSBCS will coordinate hotel reservations and registration details with the IPIA headquarters.

Manufacturer's staff must make their own hotel reservations. NCSBCS has arranged special group rates for seminar participants.

Hotel sites will be announced at a later date. If you have any questions, please contact **Maureen Maze** at NCSBCS, ***(703) 437-0100***

Application for Registration Manufactured Home Inspectors Training Seminar - 1989

Please register the following individual for the seminar checked and send the home study material to the address given below.

Name ______________________________

Street Address ______________________________

City, State, Zip ______________________________

Phone: Office (   ) ____________ Home (   ) ____________

Company ______________________________

Title ______________________________

☐ IPIA Inspector

☐ Manufacturer (Please enclose check for $60 payable to NCSBCS)

Please return as soon as possible, no later than Aug. 31st 1989

Please Check One	Date	City
☐	Aug. 30 - 31	*Ft. Worth, TX
☐	Sept. 12 - 13	*Lakeland, FL
☐	Oct. 3 - 4	*Macon, GA
☐	Oct. 5 - 6	Hamilton, AL
☐	Oct. 17 - 18	Portland, OR
☐	Oct. 19 - 20	Riverside, CA
☐	Nov. 1 - 2	Greensboro, NC
☐	Nov. 14 - 15	Harrisburg, PA
☐	Nov. 16 - 17	Elkhart, IN

** Send registration to the state IPIA headquarters*

YOU ARE CORDIALLY INVITED TO ATTEND...

THE 1990 MANUFACTURED HOME INSPECTOR TRAINING SEMINAR

A refresher course with an emphasis on:·

- Quality control to reduce consumer complaints and service cost
- Plumbing
- Heating, cooling, and fuel burning systems

A technical seminar on inspection of manufactured homes for compliance with the federal standards and manufacturer's quality control program.

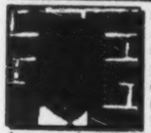
Presented by:

NCS BCS

under contract with

HUD

Who Are The Instructors?



Shyam Choudhary, P.E.
Assistant Director and Chief Engineer. Mr. Choudhary's 21 years' experience as a structural engineer includes 11 years with the HUD Manufactured Housing Program. His Masters degrees are in civil engineering and in public and business administration.

Richard P. St. Onge
Manager of Inspection and Training Services.
Mr. St. Onge has conducted in-plant audits in the HUD Manufactured Housing Program for 10 years. He also has 11 years' experience in project engineering inspection and in fire and safety code compliance in health care facilities. His Bachelor of Science degrees are in agriculture and fire protection.

Roger Sorensen
Field Engineer.
Mr. Sorensen's "hands-on" problem-solving abilities and knowledge of the factory environment stem from his 11 years' experience in the manufactured housing industry. His Bachelor of Science degree is in mathematics.

What Will I Learn?

This seminar will help you to:

- *improve your knowledge of Federal Standards and Regulations;*
- *apply those Standards during plant inspections;*
- *improve your familiarity with the quality control concepts that apply to manufactured housing;*
- *improve your understanding of NCS/BCS monitoring and IPIA/DAPIA activities.*

NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

BUSINESS REPLY MAIL
First Class Permit No. 7253 Herndon, Virginia

POSTAGE WILL BE PAID BY ADDRESSEE

NCSBCS
481 Carlisle Drive
Herndon, Virginia 22070

Who Should Attend?

NCSBCS' 1990 Manufactured Home Training Seminar is designed to be of benefit to all IPIA inspectors and supervisors, as well as to manufacturer's quality control and engineering personnel. We suggest that plant general managers and production managers attend on the first day, when quality control will be discussed.

Why Hold A Seminar?

The first seminar series was presented in 1988 to help educate those involved with manufactured home production and inspection on how to recognize non-compliance problems in specific areas, and how to improve quality control systems to prevent those problems from constantly recurring.

This seminar does not duplicate information conveyed in the two previous seminar series. Instead, it is intended to build on those seminars, broadening knowledge by offering new material and case studies, and dealing with subject areas that have not previously been discussed.

These seminars are designed with the idea that all of us —HUD, NCSBCS, the IPIA's, and the manufactured housing industry— share the same goal. Only teamwork and communication can help us realize that goal:

To Provide The American Public
With Affordable Housing That Is Safe,
Well-Designed and Durable

How Does It Work?

There are two parts to the program: a Home Study Course and a Two-Day Seminar.

The Home Study Course will prepare you for those subject areas that will be discussed during the seminar, and at the same time help you identify those Standards requirements that you need to learn more about. The Home Study Course will be sent to you before the seminar. You should devote some time (approximately 20 hours) to reviewing the material and completing the questionnaire. You are required to bring your completed questionnaire to the seminar for evaluation.

The Two-Day Seminar is a 16-hour intensive training program. It will be based primarily on federal Standards. Seminar instructors will use overheads, slides and workbooks to explain technical issues. (The home study material and the workbooks will be yours to keep after the seminar, allowing you to build a useful library for consultation.) Each seminar will also include discussion periods, and you should feel free to ask technical questions or questions regarding NCSBCS' monitoring activities. In the evening, NCSBCS engineers and staff will be available for further discussion.

At the conclusion of the seminar, you will be given a short test. The test will be based on material from the home study course and other subjects discussed during the seminar. At the conclusion of the seminar, you will receive an attractive "Certificate of Accomplishment".

Note: The test results will not be used for monitoring purposes. This program is not intended to be an "inspector certification program".

How Do I Register?

Please complete the attached form and mail it promptly. After we receive your registration, we will forward a confirmation, study material, agenda and hotel information. If the seminar you wish to attend is full, we will contact you to discuss alternate seminar dates.

IPIA inspector registration forms should be completed by IPIA headquarters, and NCSBCS will coordinate details directly with the IPIA agencies. There will be no charge to IPIA staff for registration fees and training material cost. Each IPIA agency is responsible for the travel, hotel and meals expense for its staff. However, NCSBCS will reimburse the hotel and meals expense of a limited number of IPIA inspectors from each agency.

Manufacturer's personnel will be registered on a "first come, first served" basis for each location. Manufacturer's personnel must pay a charge of $50 to cover the cost of training material, and are responsible for their own travel and per diem expenses.

NCSBCS has arranged special group rates for all seminar participants at hotel sites to be announced. However, we must stress that: All seminar participants must make their own hotel reservations!

If you have questions, please contact Maureen Mase at NCSBCS— (703) 437-0100

- -

Application for Registration — 1990 Manufactured Home Inspector Training Seminar

Please register the following individual for the seminar checked and send the home study material to the address given below:

Name: ____________________

Street Address: ____________________

City, State, Zip: ____________________

Phone: Office ( ) __________ Home ( ) __________

Company: ____________________

Title: ____________________

☐ IPIA Inspector
☐ Manufacturer (Please enclose check for $50 payable to NCSBCS)

Please return as soon as possible.

Please Check One	Date	City
☐	June 20 - 21	Lakeland, FL *
☐	July 10 - 11	Vancouver, WA
☐	July 12 - 13	Riverside, CA
☐	July 24 - 25	Perry, GA *
☐	July 26 - 27	Decatur, AL **
☐	Aug 14 - 15	Ft. Worth, TX *
☐	Aug 16 - 17	Greensboro, NC
☐	Sept 11 - 12	Harrisburg, PA
☐	Sept 13 - 14	Elkhart, IN

** Send registration to the state IPIA headquarters*
*** Send registration to state association.*

YOU'LL LEARN ABOUT

- *Foundation and anchoring systems for manufactured homes.*
- *Siting and assembly of manufactured homes.*
- *Interpretation of manufactured home installation instructions.*
- *Responsibilities and obligations of dealers under federal and state programs.*
- *Requirements for installer certification under Rule No. 535-X-12.*
- *Monitoring functions of the federal manufactured housing program administered by the U.S. Department of Housing and Urban Development (HUD).*

QUESTIONS...?

...About Alabama laws and regulations applying to certification, and the requirements for the training school, contact:

Harold Hendrix, Administrator
Alabama Manufactured Housing Commission
Telephone: (205) 261-4036

...About fees, dates, locations, and registration, contact:

Carol Thornton, Executive Assistant to the Administrator
Alabama Manufactured Housing Commission
Telephone: (205) 261-4036

...About the subjects the training school will cover, [illegible] and course materials, contact:

[illegible], Director
Housing and Building Technology Division
[illegible]

THIS TRAINING SCHOOL
IS PRESENTED BY

NCS BCS

The National Conference of States on Building Codes and Standards is a non-profit organization that promotes a cooperative system of building regulation, new building construction technologies, and use of modular and manufactured buildings nationwide. NCSBCS is headquartered in the Washington, D.C. area.

Under a contract with the U.S. Department of Housing and Urban Development (HUD), NCSBCS's Housing and Building Technology Division monitors the federal manufactured housing program and compliance with federal Standards and Regulations.

The Division evaluates manufactured home designs and the performance of DAPIA's (Design Approval Primary Inspection Agencies); maintains a library of manufactured home designs; performs in-plant audits, dealer lot inspections, and on-site inspections to investigate the cause of home failures; maintains a computer data base of consumer complaints; monitors and evaluates IPIA's (In-Plant Primary Inspection Agencies); collects fees and issues labels to all manufactured homes; and presents seminars for IPIA inspectors, state associations, and the manufactured housing industry.

The Division holds numerous other monitoring contracts and its staff has presented manufactured home installation training seminars in New Jersey, Virginia, Maryland, and elsewhere.

UNDER THE AUSPICES OF:

ALABAMA
GREAT SEAL

The Alabama Manufactured Housing Commission is the principal state agency regulating manufactured housing and its installation, manufactured commercial buildings, and modular housing. The Commission serves as the State Administrative Agency for the U.S. Department of Housing and Urban Development.

As the SAA for Alabama, the Commission performs the following manufactured housing functions: approves plans; inspects all sales locations of new and used housing; issues installation labels and certifies installers; licenses all manufacturers in state, as well as those who ship into the state, and all dealers who sell homes or are located within the state; and monitors and assists in settling consumer complaints.

The 1990 Manufactured Home Installers Training School

A Course Designed to Fulfill
The Certification Requirements
Of
Alabama Rule No. 535-X-12

ALABAMA MANUFACTURED HOUSING COMMISSION
INSTALLER# ____________
Certifies the installation of this house to be in accordance with the rules and regulations of the ALABAMA MANUFACTURED HOUSING COMMISSION
LABEL#
NAME ____________
DATE ____________
INSTALLATION CERTIFICATION LABEL

Presented by the Staff of
NCSBCS
(National Conference of States
On Building Codes and Standards)

Under the Auspices of the
Alabama Manufactured Housing
Commission

THE REASON FOR THIS SCHOOL...

Alabama law* requires that all installers of manufactured homes be certified by the Alabama Manufactured Housing Commission. Each applicant for installer certification must attend a training school within six months of the date on which his or her application was approved by the Commission. This 1-day course (held in four locations) is the only such training school that will be offered by the Alabama Manufactured Housing Commission within this calendar year.

Attendance should therefore be considered mandatory for both new and experienced installers. No certifications will be approved for installers who have not completed this school.

...AND WHO ELSE SHOULD ATTEND

This training school is designed both to meet certification requirements for installers, and to be of benefit to members of the manufactured housing industry. **The Alabama Manufactured Housing Commission encourages dealers, inspectors, and manufacturer's personnel to attend.**

This emphasis on industry participation stems from the recognition that good installation can significantly enhance the performance and durability of manufactured homes. The Commission believes that the manufactured home industry will inevitably benefit from a demonstrated concern for quality and from a thorough understanding of all aspects of design, construction, sales, and installation.

*Code 24-6-4, Chapter 535-X-12, effective March 15, 1990

FEES AND REGISTRATION

Applicants and other invitees who have not yet registered should contact the Commission immediately. Since each training school will only be able to accommodate 60 participants, registration for a particular location is on a "first-come, first-served" basis. It may not be possible, therefore, to give all registrants the location of their first choice.

There is a $50 fee for attending the training school. The $50 fee is not included in the $100 fee paid when filing an installer certification application with the Commission. All applicants must pay the $50 fee at the door prior to attending the school. Cashier's checks, money orders or cash are acceptable; personal checks or credit cards will not be accepted.

The $50 fee covers the cost of the school and course materials used, including an Installation Inspection Guide that will be yours to keep. This guide contains a copy of the laws governing installation, the installation forms, and technical information of value to installers.

Check-in on the day of the school will take place between 8:00 and 9:00 a.m. The course will be conducted from 9:00 a.m. to 5:00 p.m., with a break at noon for lunch.

You will receive your Certification Certificate after successful completion of the training school and payment of all fees.

LOCATIONS AND DATES

DECATUR June 26	**Amberly Suite Hotel** 807 Bank Street N.E. Contact: Kellie Bryant (205) 355-6800

Directions: Located 4 miles west of I-65 on the Tennessee River. From Huntsville, take Rte. 72, cross River Bridge, and turn right on Church St. From Birmingham, take I-65 to the Decatur Exit; turn left on Church St.

BIRMINGHAM June 27	**Quality Inn South** 275 Oxmoor Road Contact: Chris Pennington (205) 942-0110

Directions: Located just off of I-65 South; take Exit #256B to Oxmoor Road, approximately 1 mile east of exit. Hotel is visible from the interstate.

BAY MINETTE July 17	**Faulkner State College** Conference Room (205) 937-9581

Directions: Take I-65 to the Bay Minette/Stockton Exit, turn south on Rte. 59, go 5 miles to 4-way stop, then right on Rte. 31 for 1 mile, and turn into first entrance to college. Conference Room is in Stone Classroom Bldg.

MONTGOMERY July 18	**Ramada Inn** 1355 East Boulevard Contact: Charlotte Tucker (205) 277-2200

Directions: Take I-65 to I-85 North, go east to Exit 6 (Eastern Bypass). Hotel is located directly across from exit.

If you need overnight accommodations at the school you are attending, please call the person listed above for special room rates. **No accommodations are available at Faulkner College, so attendees should plan accordingly.**

ROBERT C. WIBLE'S RESPONSE
TO
CHAIRMAN GONZALEZ'S QUESTIONS

Testimony Given May 24, 1990
Before the U.S. House of Representatives
Subcommittee on Housing and Community Development
of the
Committee on Banking, Finance and Urban Affairs

July 6, 1990
National Conference of States on Building Codes and Standards, Inc.
481 Carlise Drive
Herndon, Virginia 22070
(703)437-0100

July 6, 1990

Robert C. Wible's Response to Chairman Gonzalez's Questions (May 24, 1990 Testimony)

1.) **What are the safety implications (if any) of each kind of chassis--permanent versus removable? Can you give examples?**

The safety implications, of the permanent versus removable chassis is a highly technical matter. My engineers advise me that a safe house can be designed with both removable as well as permanent chassis. However the cutting or removal of a chassis without proper design installation considerations regarding the structural loads in a home can lead to significant durability problems in the home and severely limit the home's future relocatability which is a major part of the basic definition of manufactured housing. Of even greater significance is the fact that the permanent chassis is one of the key features which distinguish and separate manufactured homes under the Federal pre-empted program from industrialized modular housing which is still under state regulatory perview. The states believe that the deletion of the permanent chassis requirement for manufactured homes will significantly blurr the distinction between industrialized (modular) homes regulated by states vs those structures which are regulated by HUD. This distinction also has relevance to the technical provisions of the manufactured housing standards since it impacts the transportability of such homes (Please see my response to questions #12 and #13).

2.) **What are the required qualifications or certification requirements for the manufacturers quality assurance personnel?**

There are no educational, experience or certification requirements for the manufacturer's quality personnel. Many times the quality assurance personnel have other duties such as purchasing, drafting, or serving as service manager, etc.

3.) **Are they required to be certified in the field of quality engineering or quality control?**

Manufacturers quality assurance personnel have no certification requirements whatsoever. They do not even have to be a high school graduate. In our Joint State/Industry Council on

Manufactured Housing we discussed the fact that there even have been instances where the quality control (q.c.) personnel did not know how to read, but were assigned the responsibility of assuring compliance with the approved designs. It should be noted for the record that even though the Federal law and regulations do not require manufacturer q.c. personnel to be certified, some manufacturers provide excellent training to their q.c. personnel and vest them with meaningful authority. Unfortunately, however, all too often q.c. personnel do not receive such training or support.

4.) **Are the manufacturer's required to have at least one journeyman carpenter, licensed electrician or licensed plumber at each of the manufacturing facilities?**

As noted in my verbal testimony, a manufacturer is not required to have any journeyman carpenters, licensed electricians or plumbers at each manufacturing facility. In fact we understand that practically all the manufacturing facilities employ workers in these fields who have no certification or experience requirements whatsoever.

5.) **Is it not true that manufactured homes are required to be inspected by third party inspectors only once during production? For example, if a frame of the home has been inspected, the whole home is deemed to have been inspected in its entirety.**

It is true that the third party inspectors are required by HUD to inspect the home at only one point during the production process. Furthermore, it is true that if the frame of the home has been inspected that particular home is considered to have been inspected in total. Additionally there is no minimum time requirement for these third party inspections and it has been estimated by HUD that most third party inspectors in general spend less than 15 minutes per home for their inspections.

6.) **I understand that many site built homes are inspected by certified or licensed inspectors in their entirety. Is this true?**

Yes. Many site built homes are required to be inspected by the local inspectors in various stages of production. For example in Fairfax and Loudoun County, Virginia site built homes are inspected for (1) Foundations, (2) Framing (3) Plumbing and Mechanical (4) Structural (5) Final Finish. These inspections are conducted by the local inspectors who have established educational as well as certification requirements. Each building site is required to have journeyman carpenters, licensed electricians and plumbers in addition to the construction superintendent who acts as a quality assurance person for the entire project. Other states have similar requirements.

7.) **Who pays the third party inspection agencies?**

The third party inspection agencies are paid directly by the manufacturers. In those states which do not act as exclusive inspection agencies, there is intense competion between the private third party inspection agencies. The states are aware of instances where a manufacturer did not like the actions of third party inspection agency and that agency was removed and a different agency was hired. Under current regulations manufactures may change the third party inspection agency as many times as it chooses and the manufacturer is not required to advise HUD of the reasons why it has changed a HUD approved inspection or design approval agency.

8.) **Are the manufactures free to choose between different third parties in nonexclusive states?**

Yes, please see my response to question number 7 above.

9.) **Are the manufacturers free to choose and change at will different Design Approval Primary Inspection Agencies (DAPIAs)?**

Yes, since there are no exclusive public design approval agencies, all the manufactures have the option to change the design approval agency at will. (Also please see answer to question #7)

10.) **Are the designs sealed by registered engineers or architects working for the DAPIA's?**

The designs are not sealed by any registered professional engineer or architect. The designs are not sealed by any individual. However, instead the third party inspection agency places its stamp on the drawings stating that their organization has "reviewed" the designs. This practice removes legal liability from individual engineers and also possibly from the third party agencies as well. Furthermore this system does not enable HUD to determine which plan reviewer, who may or may not be a graduate engineer, reviewed a particular design. This is far different from what most state and local governments require for site built and industrialized housing.

11.) **Why are DAPIAs needed to be approved by HUD when each State has criteria for qualifications of registered engineers?**

If the current program required only state registered professional engineers to stamp approve the designs then there would be no need for HUD to establish separate qualification criteria for the DAPIA's. HUD then could incorporate the list of all registered engineers and architects by reference as approved agencies for the design approval work. However, since this is not done by HUD, HUD has in the Federal regulations established its own criteria.

12.) **Are the Manufactured Home Construction and Safety Standards different from site built codes? For example, CABO One and Two Family Dwelling Code.**

Yes, in the states view the Federal Manufactured Home Construction and Safety Standards are significantly different from the CABO One and Two Family Dwelling Code and other codes such as these governing energy conservation for residential construction. As noted in the reports of the State Task Force on The Federal Manufactured Housing Program, the HUD Standards have not been revised significantly in the last fourteen years and consequently are outdated. Secondly there are many areas where the HUD Standards are significantly weaker than CABO One and Two Family Dwelling Code. While HUD Code manufacturers associations have studies stating that the majority of the requirements of both codes are identical, the states note that where these codes are different the differences are of significant importance to consumers. For example, the area of the "Factor Safety" for the tested components, deflection requirements for the wood construction are significantly different from those provisions for other types of residential construction and wood materials constitute 80 % of the material used in manufactured homes. As noted in the answer to questions #13 below, the "factors of safety" and deflection of wood are much less stringent for manufactured housing because traditionally manufactured homes had to be of less rigid construction to enable them to survive multiple relocations during their lifetime. Now that most manufactured homes (approximately 90%) are either permanently installed or never moved once first sited, the original reason for this difference in the factor of safety and deflection between manufactured and modular home construction requirements has become nearly irrelevant.

13. **It is my understanding that typical lumber engineering designs require a factor of safety of between 4 to 6. I understand that the Manufactured Home Standards specify a factor of safety between 1.75 and 2.5 for tested components. What accounts for this difference?**

The Chairman's understanding of the generally acceptable factor of safety requirements of between 4 to 6 is accurate. However, as noted above the Federal Standards permit a factor of safety of 1.75 for non destructive tests and 2.5 for destructive tests. This difference alone constitutes a major difference in the strength and rigidity of the components since most of the home is constructed with timber. The states believe that the Federal Standards should be upgraded in this area and that tests should be permitted for only those components which cannot be analyzed using readily available analysis methods.

14.) **Do you feel that the manufactured home code is less stringent than many provisions of the model building codes?**

Yes, (Please see my responses to questions #12 and 13).

15.) **Would you please describe your definition of uninhabitable?**

A good definition for "Uninhabitable", means not fit for living, i.e. a structure that is so bad that it should not be occupied by people.

16.) **Has the current monitor of HUD levied fines to any manufacturer and, if so, describe how many and under what circumstances?**

As noted in my testimony, the HBT devision of NCSBCS has been HUD's only contractor since the inception of this Federal preemptive program. Over that 14 year period NCSBCS never has levied nor has it been authorized by HUD to levy any fines of any type on anyone.

17.) **Has the current monitor or HUD stopped the production line as a result of the audits?**

No, neither the current monitor nor HUD have ever stopped a production line. Under the Federal program only the manufacturer's quality assurance personnel or a third party inspection agency can stop a production line.

18.) **Have the auditors ever taken HUD labels away from the manufacturer?**

No. HUD's contractor does not control this aspect of HUD labels and therefore neither NCSBCS monitoring teams nor staff have taken any labels away.

19.) **In how many instances have the manufacturers had to recall their homes due to Section 615 of the current enabling regulations?**

This data is not directly available to me and the Chairman may also wish to ask this question of appropriate HUD personnel. However, an informal survey of the State Administrative Agencies (SAA) has shown that in the past 14 years there have been less than 50 instances of recall by the manufacturers affecting less than 5000 homes.

I believe it is worthwhile to note here that as amended, the proposed Housing bill deletes the definition of "defect". Defect means a failure to comply with the applicable manufactured home construction and safety standard that renders the home or any part or component thereof not fit for ordinary use for which it was intended but does not result in unreasonable risk of death or injury to the occupants. Under the current Federal regulations if the manufacturer determines that the defect exists in a class of homes then the manufacturer is required to notify the homeowners of the existence of that defect so that the homeowners can at their own expense take preventive corrective actions in order to correct the defect and consequently prevent the situation from becoming a safety hazard.

Should the proposed Housing bill be signed into law the manufacturers will no longer be required to inform the homeowners of the existence of defects in their homes even when the manufacturer has knowledge of such defects and those defects affect a class of homes. As stated earlier, even with the current law and regulations the instances where the manufacturer had to inform the homeowners has been less than 50 affecting less than 5000 homes in the last 14 years. This provision however, had in fact encouraged the manufacturers to make rapid correction(s) of defects for such homes. The states believe that the removal of both the term defect and a deletion of the manufacturers notification to the homeowners of defects in a class of homes (so that they can at their own cost correct the problem) is a serious erosion of consumer protection and warrants reconsideration by Congress.

20.) **Mr. Len Wehrman, Vice President of Government and Industry Relations for the National Foundation of Manufactured Homeowners, brought to the attention of the Housing Subcommittee in his testimony the California State Warranty requirements. Would you support or oppose language in the Hiler amendment warranty which paralleled Section 1797.3 of the California Statute? Why?**

While California's warranty law is better than that available in many states, its inclusion in Congress's proposed changes to Title VI in place of existing law requirements covering defects would not be something the states could support. Furthermore it would be helpful if any warranty provisions contained in the Federal law were spelled out in greater detail and then cross referenced to the "Prohibited Acts" Section 610 of the Federal law.

21.) **Are there any warranties in existence that cover installation and set-up of manufactured homes?**

Yes, Arizona has such provisions but they are coupled with bonding requirements.

22.) **The Hiler amendment stipulates pre-emptive federal standards. How might this impact consumers from areas with specific regional concerns--such as California's concerns of earthquakes--if the States cannot impose stricter standards for these special conditions than the federal standards.**

The consumers from areas with specific regional concern such as California's earthquake or high altitude locations with higher snow loads are not protected if the states are pre-empted in their specific standards for such unique local conditions. HUD should review such local requirements and where relevant incorporate some of them into the Federal Pre-emptive standard.

23.) **As a general rule, do manufactured homes appreciate or depreciate? And what are the specific reasons for this property value increase or decrease?**

As a general rule manufactured homes have depreciated in value. In my opinion both the lack of durability of some of these structures and their being considered as personal property instead of real estate property are the primary reasons for this depreciation.

ROBERT C. WIBLE'S RESPONSE
TO
CONGRESSMAN HILER'S QUESTIONS

Testimony Given May 24, 1990
Before the U.S. House of Representatives
Subcommittee on Housing and Community Development
of the
Committee on Banking, Finance and Urban Affairs

July 6, 1990
National Conference of States on Building Codes and Standards, Inc.
481 Carlisle Drive
Herndon, Virginia 22070
(703) 437-0100

July 6, 1990

Robert C. Wible's Response
to Congressman Hiler's Questions
(May 24, 1990 Testimony)

Virtually all of Congressman Hiler's questions have been answered within the text of my written testimony (including its attachments) and in my oral testimony given May 24, 1990. In the following pages, however, is my formal response to each question. Where appropriate, I have provided supplemental information or have cross-referenced information previously provided during my testimonies.

1. Do NCSBCS members include states that are also private inspection agencies? Are state personnel included in your inspection teams?

As noted in the opening remarks of my testimony, NCSBCS was founded by the nation's governors to help the states coordinate their building code and public safety concerns. NCSBCS performs this function through the work of each of the governor-appointed delegate members, who are, in most cases, the chief building regulatory official from their respective state. NCSBCS also fulfills that function through its Executive Branch Agreement with the National Governors' Association. None of the states are private inspection agencies. By definition, states can only be public inspection agencies. NCSBCS does have state members that are public inspection agencies. As organizational and associate members, NCSBCS also has manufacturers and representatives from private agencies which are members of NCSBCS.

With regard to state personnel being part of our inspection teams, as noted in my written testimony (see pages 5-9), in preempting the states' regulatory authority over the design and construction of manufactured housing, Congress determined that HUD would involve the states in the administration and enforcement of the federal program "to the fullest extent possible." Accordingly, under 24 CFR, Section 3282.451, HUD mandates that NCSBCS, as HUD's agent, must include in its "joint" monitoring teams State Administrative Agency (SAA) personnel.

The inclusion of the SAA personnel in the joint monitoring teams is required by HUD in order to replicate, to some extent, the regulatory frame work of the states prior to the federal pre-emption. Please note that prior to the federal pre-emption the states statutes required their inspectors to conduct monitoring inspections at the plant facilities exporting homes to their states. Requiring the state personnel to be part of the monitoring team is designed to assure the states that the states public interest obligations are not severely compromised due to the federal pre-emption and that the states participate in the federal program to the maximum extent possible.

2. Do you evaluate both state and private primary inspection agencies?

Robert C. Wible's Response
to Congressman Hiler's Questions
Page Two

No. The NCSBCS Housing and Building Technology Division personnel under contract to HUD do not evaluate the performance of public and private inspection agencies. Only HUD can carry out that function. NCSBCS does, however, gather data on the performance of third party agencies through DAPIA and IPIA Performance Review Reports. These reports are forwarded to HUD, and along with other data acquired by HUD, HUD then uses this information to evaluate the performance of both public and private inspection agencies.

It is worthwhile to note that the NCSBCS Housing and Building Technology Division personnel carry out a similar function for several state governments through the monitoring of third party agencies for industrialized/modular buildings design and construction. NCSBCS board of directors, members, and other employees including myself, who do not work directly in the Housing and Building Technology Division do not have access to the data collected by HBT personnel in fulfillment of contractual obligations to HUD. (See page 3 of my written testimony)

3. Isn't there an inherent conflict of interest in having you monitor the performance of state inspection agencies where you are in fact using state personnel to do the monitoring?

HUD, by regulation, has precluded any such conflict from ever occurring. In designing the regulatory system for the federal program, HUD and the states mandated that the SAA personnel used on the HUD contractor's monitoring teams were barred from being used to perform monitoring audits within their own state. Please refer to 24 CFR, Section 3282(a)(3). The above coupled with my response to both question #1 and question #2 clearly outlines that there is no conflict of interest.

4. If there are no private inspection agencies, the states would have to do that job themselves, wouldn't they?

If there were no private inspection agencies, it is fair to assume that state governments would consider the need to have an appropriate state agency fulfill that function.

5. How would you characterize your relationship with the manufacturers?

As noted in my written and oral testimonies, NCSBCS has a record of working cooperatively with industry to help assure the health, welfare, and life safety of the consumers of manufactured housing and to encourage the availability of such housing. The manufactured housing industry associations, the Manufactured Housing Institute and the Association for Regulatory Reform, are organizational members of NCSBCS. MHI and a number of manufacturers are active participants on several NCSBCS committees, including our A225.1 Manufactured Homes Installation Standards Committee. Additionally, since December 1987, NCSBCS state delegates and industry representatives have worked together as members of the Joint State/Industry Council on Manufactured Housing. During 1988-89, that council approved and forwarded to HUD Secretaries Pierce and Kemp and to Congress a consensus report endorsing 11 of the 12 recommendations for needed improvements in the federal program that were outlined in a 1987 NCSBCS State Task Force report, "Fulfilling the Public's Trust."

The NCSBCS Housing and Building Technology Division personnel, under HUD's direction, do hold meetings with manufacturers. Additionally, the manufacturers are encouraged to participate in the review of proposed changes to third party agencies' monitoring forms, to attend contract-funded training programs on quality assurance, and to provide technical comments on the contents of the uniform monitoring procedures and instructions manual (the AQL manual).

6. Is it adversial in nature?

NCSBCS does not see its relationship with industry as being adversial. While the states and some segments of the industry may not always agree on the approaches taken to achieve the goal of assuring the availability of safe, decent, durable, and quality manufactured housing, we do, in fact, share that ultimate goal.

As noted in my response to Question #5, the NCSBCS Housing and Building Technology Division personnel do not see industry as adversaries, rather as providers of affordable housing which the third party agencies are charged with the responsibility to assure that the homes comply with the federal law and regulations.

7. What is NCSBCS' function?

NCSBCS' function is detailed in my written testimony (see pages 1-6). NCSBCS was created by the nation's governors to nationally coordinate the states' building code and public safety responsibilities. In recognition of this fact and NCSBCS' expertise in the area of manufactured housing, in 1976 HUD awarded NCSBCS a sole-source contract to provide monitoring and other services needed to fulfill Title VI of the 1974 Act. HUD noted in that contract that, "It is the further purpose of this contract to provide a mechanism through which the states can efficiently and effectively participate in the program of enforcement of the Federal mobile home construction and safety standards. Through the use of this mechanism, states will be provided assurance that mobile homes manufactured in other states meet the standards. The mechanism also allows the use of qualified state personnel in the enforcement system, and it provides equitable payment to the states to cover their costs of participation in the enforcement system."

Robert C. Wible's Response
to Congressman Hiler's Questions
Page Four

Since 1982, the states have continued to direct NCSBCS to respond to each subsequent competitively bid HUD monitoring contract. In this fashion, the preempted states have chosen to continue to participate in a mechanism that helps assure them that manufactured homes moving in interstate commerce are conforming homes and are suitable for their consumers to live in.

Under contract to HUD, the purpose of the NCSBCS Housing and Building Technology Division is to fulfill all of our contractual requirements on time, within budget, and in a professional manner. Among other things, this work involves gathering and reporting data to HUD which can be used to properly evaluate the performance of public and private third party agencies.

8. Is NCSBCS' function to detect every construction discrepancy in a home? If no, then aren't construction discrepancies and noncompliances among the things that you look for under AQL? Aren't these items normally addressed by warranties?

The purpose of HBT audit is obviously not to detect every construction discrepancy in a home. HBT monitoring teams visit manufacturing facilities on the average 1.8 times a year for a total of 14 hours every year. During such visits the teams review manufacturers quality control program, IPIA inspection records, DAPIA approved designs, listed and certified components, etc, with an overall objective of determining how effective the IPIA has been at these facilities. HBT teams see many floors in different stages of production for example the frame of one home, floor of another, walls and roof of yet another and so on. It takes many days to make a home therefore the auditors cannot and do not detect every construction discrepancy of a home. The auditors also note all those construction discrepancies which the manufactures quality control personnel failed to detect. On the average HBT auditors find more than 5 noncompliances to the standards. Even though NCSBCS auditors review many homes in different stages of production, their audit however covers the production process for a complete home. Through this audit HBT collects data which is utilized by HUD to analyze the IPIA's functions. Under the law and HUD regulations the IPIA has responsibilities to assure that:

a. The plant is capable of following the quality control procedures set out in the quality assurance manual.

b. The plant continues to follow the quality assurance manual.

c. That any part of any home which the IPIA actually inspects conforms to the designs and standards.

d. That the corrections are made before the homes are labelled.

e. And that if the IPIA or manufactures records indicate other homes might not conform these homes are brought to conformance before leaving the factory.

(Please refer to section 3282.362 of the regulations for further detail)

A manufacturer's warranty will not address any of these non-complinace items. I am sure some of these nonconformances immediately manifest themselves in a new house and are addressed by the manufactures, most of the items however are not visible to the home owner or manifest themselves in a few years and are therefore not addressed by the warranties. The most significant point is not of warranties or correction of a minuscule number of homes actually inspected by the auditors, it is the evaluation of the effectiveness of the manufactures quality assurance program and consequently by the adequacy of the ongoing IPIA surveillance. The HUD label is a certification of conformance.

9. What purpose does your inspection for simple nonconformance serve?

The NCSBCS Housing and Building Technology Division monitoring teams do not inspect for simple nonconformances. As previously noted, these teams visit manufacturing facilities only to obtain data to enable HUD to evaluate the performance of third party agencies. The nonconformances that may be seen during such a visit are written up as examples of whether or not a third party agency is performing its legal responsibility of assuring that homes leaving the manufacturing facility do not contain nonconformances. "The proof of the pudding is in the tasting." My answer to question #8 describes the nature of HBT audits, observation of nonconformance to the approved designs and standards is part of the data used by HUD to evaluate the IPIA's.

10. Does NCSBCS see manufacturers as adversaries?

No. As previously noted, manufacturers are partners. Neither the states nor do any NCSBCS personnel see manufacturers as adversaries.

11. Why has it taken 14 years for you to finally listen to their complaints against NCSBCS?

Throughout the 14 years of our involvement in the federal program, NCSBCS, its delegate members, and staff have always been willing to listen to, and indeed have actively solicited, the concerns of manufacturers regarding the work which NCSBCS performs under contract to HUD (see page 10 of my written testimony). This question possibly derives however, from the fact that last year the director of the HBT division and other management staff of that division increased their number of meetings with many manufacturers. Please note that while NCSBCS as organization has always been open to the manufacturers, the HBT division works as a contract agent and can only work on those functions which HUD specifically authorizes. Last year, HUD asked the HBT division to increase its contacts with the manufactures. HBT division responded to that request immediately. We at NCSBCS believe that HUD either directly or through its monitoring contractor needs to maintain and increase such contact with the industry. It is also interesting to note that initially when HBT division personnel met with the manufacturers to discuss the details of the monitoring functions some manufacturers expressed a concern to HUD that such meetings should not be held and the fee money is for enforcement only. We at NCSBCS believe that contacts and communication helps develop a better program and are hopeful that HUD will maintain and expand such contacts with the industry.

12. Is there any formal mechanism within NCSBCS for manufacturer participation in policy decisions?

Yes. The NCSBCS consensus-based standing committee structure provides a basis through which manufacturers and their associations can make policy recommendations to the NCSBCS Board of Directors and state delegate members. Over the years, several manufacturers and representatives from the Manufactured Housing Institute have actively served on such committees. On the other hand, the Association for Regulatory Reform, an NCSBCS member since 1985, has not chosen to participate in any such NCSBCS activities. As an organization representing state government, NCSBCS meetings are open to the public. As executive director for NCSBCS, I am always open and willing to meet with industry organizations or industry representatives to exchange views. We believe that industry input in policy making is important and welcome the industry members to participate in NCSBCS meetings.

13. Yet, as a monitoring agent, you are acting in the stead of HUD, a government agency accessible to public participation?

As previously noted, NCSBCS is accessible to the public and to industry. Our Board and committee meetings are open; public and industry participation are encouraged. It should be noted that issues related with the monitoring contract are contractual in nature and only HUD has the authority do direct how the contract function is to be performed.

14. Do you think, after 16 years, there is any need for change to the Act?

As noted on page 4 of my written testimony, since 1985, through the NCSBCS State Task Force on the Federal Manufactured Housing Program, the states have actively sought to work cooperatively with HUD, industry, consumers, and Congress to make needed improvements in the federal program's regulations and in the 1974 Act. The states, however, do not concur with most of the changes put forward in Congressman Hiler's amendment to H.R. 1180. The States also believe that the compromise bill dated June 12, 1990 amending the Title VI needs to be revisited in several areas including those concerning consumer protection.

15. Do you acknowledge the need for additional guidance within the Act regarding: what makes a home durable; the importance of affordability; the performanced-based nature of the standards; and the permissible purposes of research, development testing, and training?

The states acknowledge that the areas of durability, affordability, the contents and nature of the federal standards, and appropriate research, test development, and training are worthy subjects for congressional oversight and review. The states, however, do not see that the changes in these areas, as offered by Congressman Hiler's amendment, are designed to either enhance consumer protection or strengthen the overall affordability (including life cycle, maintenance, and operating costs) of manufactured housing. The States do not believe that the compromise bill offered by the Committee Leadership adequately address the consumer protection interests.

16. Do you agree that manufacturers should be entitled to a say in deciding where inspection fee moneys will be spent?

The states believe that all interested and affected parties--consumers, HUD, state and local governments, dealers, and manufacturers--should have a voice in helping Congress determine where inspection fee moneys will be spent. The states, however, do not agree that the manufacturer should be entitled to more than just one voice in this discussion. Fees should be spent to fulfill the purpose of the law, be it at the federal or state level. It is the consumer who pays for the inspection fee for the assurance that the home they have just purchased is conforming to the minimum standards and is neither unsafe nor left behind in technology due to lack of research and training.

17. Are you aware of a HUD Inspector General's Audit Report issued in 1988 regarding NCSBCS' monitoring contract with HUD? Are you aware that the report showed more than $2 million in questioned costs? Are you also aware of $889,055 in questionable costs that are specifically identified to be unsupported, unreasonable, or contingent? How were these questionable costs ultimately resolved?

NCSBCS is fully aware of the above referenced audit report. Such audit reports are mandated by law prior to the award of all major contracts.

As regards the last portion of your question, I would like to refer you to the content of a letter from HUD official Chris Greer, which accompanied your copy of the referenced audit report. Mr. Greer informs you of the purpose of the HUD report and notes that the issues raised by the report (i.e. the "questionable costs") were subsequently resolved to HUD's full satisfaction prior to awarding the contract to NCSBCS. Additionally, the letter states that, the fact that the issues were raised in the report, "is not to be misunderstood, misconstrued, or misrepresented to imply any improprieties or illegalities on the part of NCSBCS."

Mr. Greer concludes by noting that, "Furthermore, the recipient of this FOIA data is cautioned not to misunderstand, miscommunicate, or misrepresent, in any way, the facts stated herein relevant to the purpose and content of the HUD audit report 89-AO-261-1001."

In general, these costs were resolved through routine contract negotiations through which HUD received additional information substantiating the need for such costs and through which NCSBCS reduced or removed several items based upon further clarification of HUD's contract needs. Many of these later items involved the Department's decision to restructure from earlier contracts what cost items would continue to be included within the contractor overhead cost.

I have attached a copy of Mr. Greer's letter. If Congressman Hiler has any further questions concerning this matter, I believe it would be useful for him to contact Mr. Greer.

18. I understand you serve on the MHCSS Act consensus committee which reviews the HUD code and makes recommendations to HUD on an annual basis for changes to the standards. I believe the Hiler amendment supports this concept and requires HUD to rely on this and other consensus groups. Do you think that this provision has the potential to improve the HUD code?

I do not personally serve on the MHCSS Act consensus committee referenced in this question, but several of the NCSBCS state delegate members do. The delegates serve on two such bodies; one maintained by the Council of American Building Officials and the other maintained by the Manufactured Housing Institute. The work of these two separate bodies should lead to improvements being made in the federal standards, however, from the states' observations, neither of these bodies have made significant progress towards that end. Congressman Hiler's proposed changes to the current federal law, as regards both the standards and other aspects of the 1974 Act, would not by themselves improve the program. Mr. Hilers amendment stressing initial acquisition cost and removing the notification of defects for a class of homes does not strengthen the program. NCSBCS, however, believes that the consensus bodies can and should work judiciously to make needed improvements to this program. The proof of the pudding is in eating, the consensus bodies so far have not made any significant improvements.

19. Are you aware of the Foremost Insurance Company's recent report, Manufactured

Housing, the Market Facts? It indicates that 87% of all the manufactured homeowners were satisfied with their home and that 57% were very satisfied. Frequently mentioned advantages focus on affordability and low maintenance costs as a major advantage. From your experience, do you agree with these results?

We are aware of the Foremost Insurance Company report, however, based upon the detailed State Administrative Agencies' consumer complaint data, which we also have seen, we question the validity of the Foremost report, especially over the long term (i.e. past the first, second, or third year of ownership). We are also aware of two other studies. The study of consumer satisfaction conducted by Fleetwood Corporation, the largest manufacturer of the manufactured homes and a study conducted by HUD under contract with Westat Corporation and RADCO, an independent private third party agency. Both of these studies
obtained results significantly different from those reported by Foremost. Like any other data, one needs to read all the fine print. While manufactured homes have come a long way, we believe that with such conflicting data this area should be further studied by HUD.

20. I understand that many of your concerns are related to the consumer protection provisions. Doesn't the requirement in the Hiler proposal for a one-year warranty help to address some of your concerns? Also, would you support an additional requirement now under consideration to mandate a pre-inspection walkthrough checklist for the homeowner along with improvement in the existing consumer manual as an effort to correct problems before occupancy?

No. As the Hiler proposal is written, the states remain skeptical that the federal warranty will resolve the consumer protection concerns which the states have raised over the past months.

With regard to the second part of the question, the amended language proposed by the full committee calling for a 2-year warranty could be supported by the states if this language change was made to the existing 1974 Act and not to the severely weakened consumer protection provisions of Congressman Hiler's amendment. Pre-inspection walkthrough checklist and better consumer manual will help correct problems before occupancy. However, many design and construction deficiencies manifest themselves in visible form a few years after the occupancy. We believe that those consumers who were sold homes with non conformances to the standards and if these non conformances are of such a nature that they will make the home not fit for ordinary use then the homeowner needs to be notified of these problems so that at least the consumer can take adequate steps to correct the deficiencies. The proposed amendments severely weaken this area. The small items such as door hinges's etc, are not the standards related items we are talking about. Our concerns are over only the code deficiencies and not the cosmetic items.

Robert C. Wible's Response
to Congressman Hiler's Questions
Page Ten

21. We are very interested in addressing more specifically your interests in assuring that consumers are protected with respect to the important aspects of transportation, installation, and tiedown requirements currently not covered by the HUD code. What are your recommendations for addressing these issues?

The states appreciate the opportunity to make such suggestions. Our recommendations are attached, but it should be noted that, to be effective and meaningful, these changes should be made to the existing federal law and not to the amendment offered by Congressman Hiler. My recommendations regarding the aspects of transportation, installation and tiedown are as following:

Transportation:

Each home should be designed to withstand the loads anticipated due to transportation. Highway transportation tests which adequately and suitably simulate the actual loads and conditions of transportation may also be used to improve this important aspect of the homes ultimate performance. The current practice of a manufacturer's statement that less than one percent damage due to transportation will occur is not adequate because there is no uniform method to determine the actual as well as latent damage due to transportation. Many times a dealer, who is not usually technically qualified, inspects the homes for transportation damage. We believe the answer to this condition may lie in developing an analysis methodology so that these homes can be designed better.

Installation and Tiedown:

HUD should require as a precondition for approving a state as an SAA that it has :

1. Provisions for monitoring of dealers lots within the states for transit damage, seal tempering and dealers performance generally.
2. Provisions for monitoring of the installation of the manufactured homes set up in the state to assure that the homes are properly installed and where necessary tied down.
3. In the states which are not SAA's or the states whose SAA status has been revoked HUD must conduct the dealer lot monitoring and monitoring of the installation of homes.
4. HUD showed adopt a consensus installation manual such as NCSBCS A225.1 as a document to be used for those homes where the manufactures installation instructions are no longer available.

March __, 1990

ATTACHMENT TO QUESTION # 17

EXPLANATORY NOTE TO HUD AUDIT REPORT 89-AO-261-1001

To Whom It May Concern:

The above reference audit report of the evaluation of cost and price proposal submitted by the National Conference of States on Building Codes and Standards, Inc. (NCSBCS) was prepared by the U.S. Department of Housing and Urban Development (HUD) Office of the Inspector General for the sole purpose of facilitating formal contract negotiations between HUD and NCSBCS in response to HUD RFP HC-15584.

This report concludes that the NCSBCS cost proposal "provides an acceptable basis for negotiating a price." The recipient of this FOIA data must note that the identification of $2,091,581 in "questionable costs" by the Office of the Inspector General is not to be misunderstood, misconstrued, or misrepresented to imply any improprieties or illegalities on the part of NCSBCS in either its submission of its "Cost and Price Proposal," or in the work NCSBCS is performing under this contract, which was subsequently awarded to NCSBCS by HUD.

Furthermore, the recipient of this FOIA data must note that the term "questionable costs," as defined in this audit report, merely gave the HUD Office of Procurement and Contracts the basis to conduct a more detailed negotiation with NCSBCS to resolve these "questionable costs" to the federal government's satisfaction prior to awarding HUD RFP HC-15584 to NCSBCS. In addition, the recipient of this FOIA data must note that the "questionable costs" were subsequently resolved to HUD's full satisfaction prior to awarding the contract to NCSBCS.

Furthermore, the recipient of this FOIA data is cautioned not to misunderstand, miscommunicate, or misrepresent, in any way, the facts stated herein relevant to the purpose and content of the HUD Audit Report 89-AO-261-1001.

Chris Green

Signature of the Responsible HUD Official

FEB 2 1976

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

OFFICE OF THE ASSISTANT SECRETARY
FOR ADMINISTRATION

IN REPLY REFER TO:
ACS

JAN 29 1976

RECEIVED
FEB 6 1976
UTAH STATE BLDG. BOARD

National Conference of States On
Building Codes and Standards
210 74th Street
Des Moines, Iowa 50322

Gentlemen:

Enclosed are three copies of Contract H-3949. Please sign two copies and return them to this office.

Sincerely,

C. H. Wolfe
Contracting Officer

Enclosures

Attachment A

STATEMENT OF WORK

I. Background

Under the National Mobile Home Construction and Safety Standards Act of 1974, HUD is responsible for establishing and enforcing Federal mobile home construction and safety standards. On the basis of past experience in the mobile home industry, HUD has determined that a system of inspections of mobile home manufacturing plants is necessary to enforce the standards. HUD must also review the building plans for every model of mobile home subject to the standards. Finally, HUD must assure that notification of purchasers and correction of mobile home defects are carried out whenever they are required by the Act.

The inspections of the mobile home manufacturing process and of mobile home building plans will be carried out by states or private organizations which are approved by HUD as primary inspection agencies. Each manufacturer must arrange with a primary inspection agency to have the full range of inspection services. The assurance that the primary inspection agencies are adequately performing their inspection and other functions will be provided through monitoring of the actions of the primary inspection agencies. Monitoring visits will be made to each mobile home manufacturing plant and the headquarters of each primary inspectio agency at frequencies to be determined on the basis of HUD's decisions about the quality of the performance of each primary inspection agency with respect to particular manufacturing facilities.

The ultimate responsibility for performing the monitoring function and assuring that the enforcement program operates correctly lies with HUD. Under Section 623 of the Act, states may carry out enforcement of the Federal standards if they meet certain criteria set out in that section and other requirements established by HUD. In order to be approved, states must establish administrative inspection fees to be paid by manufacturers in accordance with HUD guidelines and must enter into agreements with the Contractor parallel to this contract. States which are not approved will have no role in the monitoring of the primary inspection agencies or the enforcement of the Federal standards.

This monitoring will be carried out on behalf of HUD and the approved states by the National Conference of States on Building Codes and Standards (hereinafter, the Contractor). The standards themselves take effect on June 15, 1976.

II. Purpose and Objectives

The primary purpose of this contract is to provide adequate monitoring of the performance of primary inspection agencies in order to assure that they are performing their function of permitting only mobile homes which comply with the Federal standards to be manufactured.

It is the further purpose of this contract to provide a mechanism through which the states can efficiently and effectively participate in the program of enforcement of the Federal mobile home construction and safety standards. Through the use of this mechanism, states will be provided assurance that mobile homes manufactured in other states meet the standards. This mechanism also allows the use of qualified state personnel in the enforcement system, and it provides equitable payment to states to cover their costs of participation in the enforcement system.

III. Tasks

A. Program Management Plan

As a condition precedent to the continued validity of this contract, the Contractor shall, within thirty (30) days of the date on which this contract is executed, provide a Program Management Plan which sets out in detail steps which

National Rural Electric Cooperative Association

1800 Massachusetts Avenue, N.W.
Washington, D.C. 20036
Telephone: 202/857-9500

Statement

of

Bob Bergland

Executive Vice President

National Rural Electric Cooperative Association

before the

Subcommittee on Housing and Urban Affairs

Committee on Banking, Housing and Urban Affairs

United States Senate

Regarding

The Manufactured Home Construction and

Safety Standards Act of 1990

July 26, 1990

Mr. Chairman and distinguished members of the Subcommittee:

I am pleased to submit this statement on behalf of the National Rural Electric Cooperative Association (NRECA), in opposition to the Manufactured Home Construction and Safety Standards Act of 1990, as attached to the U.S. House of Representatives' Omnibus Housing bill (H.R.1180). I would like to respectfully request that this statement be included in the hearing record.

NRECA is the national service organization for the 1,000 rural electric systems which provide power to 25 million people in 2,600 counties in 46 states. Each rural electric cooperative is owned by its consumers who elect a board of directors to set policy and guide the cooperative in its service to the community.

Mr. Chairman, I commend you and this subcommittee for holding this hearing on this very important issue of manufactured home standards, and on the package of amendments attached to H.R.1180 which would overhaul the law governing the construction and safety of these homes.

Background

Manufactured homes (mobile homes) constitute a major portion of new housing in rural areas. At least fifty percent of the new homes being connected in rural areas across the U.S. are manufactured homes, and currently make up about fifteen percent of the entire stock in those areas. These homes provide a valued stock of shelter for these communities. However, they can be energy-wasteful due to factors such as the use of less efficient materials, fixtures and appliances; problems caused by poor workmanship, transportation, and installation; deficiencies in insulation and detailing, and ineffective siting.

Historically, manufactured homes have been a problem for rural electric cooperative systems across the country due to the excessively high monthly energy bills facing the people living in this housing. Consumers who buy a lower quality, poorly insulated manufactured home, while they initially pay less for that housing, in actuality end up paying a premium in higher energy costs every month that they own it. Many cases have been reported in which mobile home owners pay nearly as much, and sometimes more, in energy costs as their monthly house payments.

Furthermore, surveys conducted over the years by insulation manufacturers show that the majority of manufactured home owners and prospective owners are concerned about energy and have a strong desire to obtain more energy-efficient units. Consumers have indicated a willingness to pay for the additional expense which they realize more energy efficient features will ehtail.

Manufactured Home Construction and Safety Standards

The Manufactured Home Construction and Safety Standards Act, currently attached as an amendment to the Omnibus Housing bill (H.R.1180) would relax the existing law for manufactured housing which, historically, has included weak construction and safety standards.

The amendment, under the guise of modernizing the existing manufactured housing law, would actually weaken the law in several respects. The House amendment includes the following provisions:

- o Restricts the ability of the Secretary of Housing and Urban Development (HUD) when setting new construction and safety standards by having to consult with the National Manufactured Home Advisory Council, instead of with the Consumer Product Safety Commission as required in current law, prior to the establishment of such standards. This provision effectively restricts HUD's authority to issue new standards unless they are approved by an advisory council that is heavily represented by the manufactured home industry.

- Removes the term "defect" from the Act and substitutes it with "serious defect." This would make it more difficult for a customer to find out about a defect that would render the home unfit for ordinary use or to obtain remedial action by the manufacturer. "Serious defect" would mean that manufacturers need only take remedial action when the home is determined to pose a serious safety hazard.
- Strikes the requirement that a manufactured home, when erected on site, is built on a permanent chassis. This would be a significant change from current law, given that the chassis is what separates a manufactured home from a stick built home and exempts the manufacturer from having to comply with any state or local construction and safety codes.
- Requires the Secretary of HUD to consider the initial acquisition cost for any new construction or safety standards being considered for manufactured homes prior to establishing such standards. This provision fails to provide for an accounting of energy cost savings that would benefit a consumer on a monthly basis as a result of energy improvements done to a manufactured home.
- Restricts the Secretary's discretion to request certain types of research, testing, development and training related to the National Manufactured Housing Construction and Safety Standards Act. This provision limits the Secretary's ability to make such requests on a case by case basis in determining the existence of a substantial systemic safety-related problem. Furthermore, it greatly limits the use of fees for purposes of conducting inspections and to do certain types of research.
- Requires the manufacturers to provide the home owners with a two year warranty at the time of sale, without specifying what parts and systems in the manufactured home must be covered by the warranty.

Conclusion

The manufactured housing amendment attached to the U.S. House of Representatives' Omnibus Housing bill, H.R.1180, would significantly weaken the law governing the construction and safety standards of manufactured homes. It would weaken consumer protection, restrict HUD's authority to issue new standards, and lessen the manufacturers responsibility to correct any structural deficiencies.

Weakening the existing law goes entirely in the wrong direction. Instead, every effort should be made, in coordination with the mobile home manufacturers, to develop higher energy efficiency standards. That would ease the burden of consumers who consistently face excessively high energy bills every month. This is especially true in rural communities where manufactured homes constitute the majority of new housing stock.

From a financial standpoint quality homes will appreciate in value, while poorly built mobile homes tend to lose value. The manufactured housing industry itself recognizes that the value of used mobile homes does not keep up with the cost of inflation.

Mr. Chairman and members of the committee, I commend you again for holding these hearings and appreciate the opportunity to submit this statement for the hearing record in opposition to the Manufactured Home Construction and Safety Standards Act of 1990.

National Association of Home Builders
15th and M Streets, N.W., Washington, D.C. 20005
Telex 89-2600 (202) 822-0200

July 26, 1990

The Honorable Alan Cranston, Chairman
Committee on Banking, Housing and Urban Affairs
Subcommittee on Housing and Urban Development
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Attached is a statement of the National Association of Home Builders on the issue of manufactured housing, which we would like to have included in the official hearing record of the July 26, 1990 hearing.

Thank you.

Sincerely,

Floyd Williams
Staff V.P./Legislative Counsel
Government Affairs Division

Attachment

STATEMENT OF
of
THE NATIONAL ASSOCIATION OF HOME BUILDERS
Submitted to the
SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS
UNITED STATES SENATE
on
MANUFACTURED HOUSING
July 26, 1990

Chairman Bryan, Members of the Housing Subcommittee:

The National Association of Home Builders (NAHB), on behalf of its more than 157,000 member firms that are engaged in the many facets of the housing industry, both single family and multi-family, and in urban and rural areas, submits the following statement for the record on the issue of manufactured housing.

The Housing and Community Development Act of 1974, P.L. 93-383, is perhaps best known for the birth of Section 8, a new construction rental housing program, and the birth of CDBG, the Community Development Block Grant Program, which incorporated seven categorical grants -- urban renewal, and water and sewer, among others. But, it may someday best be remembered for its block grant type of approach of defining manufactured housing.

Like George Orwell's "newspeak", gone are the narrowly descriptive terms of trailers, mobile homes, modular homes, and dome homes, and in their place is the all encompassing term of manufactured home. The Basic Laws on Housing and Community Development, revised through November 8, 1984, define "manufactured home" as "Housing, including a mobile home, that is factory-built or prefabricated."

For the purposes of Title VI, of the Housing the Community Development Act of 1974, "The Manufactured Home Construction and Safety Standards Act of 1974," "manufactured home" is defined as a structure, transportable in one or more sections,...which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation ...."

The reasoning behind defining manufactured housing in such a manner was clear then, and perhaps is even more clear now. Title VI is the federal preemptive code, often referred to as the HUD Code, which allows manufactured housing meeting this very narrow definition to be built and later sited on a lot, with the housing not having to conform with local and state codes, or even to comply with one of the four nationally recognized model building codes. Other types of factory built housing do not enjoy the preemption, but must conform to state and local building codes.

However, there is another, and more important, issue here: That is how does the general public, public officials, or the Congress separate that housing which meets the definition of manufactured and that is eligible for manufacture under the HUD Code from manufactured housing that does not meet the HUD Code, and, thereby preempted from state and local building codes?

The HUD Code is quite different from model building codes used by state and local governments. However, when was the last time any of us saw a potential home buyer walking around carrying either as he or she was considering buying a home? Furthermore, who among us would understand what we were looking at if we had both codes? And, who among us could look at three homes, one site built to local codes, one factory built (manufactured) to the same state or local code as the site-built home, and one factory built to the HUD Code, and be willing to risk credibility as to which was which?

This is not to say that there should be a discernible difference in appearance among the three. But, there remains a difference, nonetheless. Both the site built home and the factory built home, which are both built to the nationally recognized model building codes and/or a state or local code must conform to the same standard. The factory built home with a permanent chassis is allowed to meet a different standard, that is, the HUD Code.

The two codes are different, because the HUD Code requires the home to be built on a permanent chassis. Remove the chassis, and the manufactured home is just like the other manufactured home. Or is it? No, there are significant structural differences in the HUD Code and the model building codes. The differences are great enough that NAHB respectfully urges that the Subcommittee request an independent analysis of the performance of these codes -- the HUD Code versus the model building codes -- prior to allowing the removal of a chassis from a manufactured home built to the HUD Code.

The definition of a manufactured home built under the HUD Code includes the requirement of a permanent chassis, we believe, because of the result of a sound engineering analysis. Without benefit of further analysis, the House Housing Subcommittee approved a provision to allow manufactured housing built to the HUD Code to be built with a removable chassis as a provision within a more broadsweeping amendment on manufactured housing. Based on what? Marketability?

While others may argue that there are no structural differences between the one manufactured home that must conform to the model building code used by the locality in which it will be sited, while the other is allowed to meet the HUD Code, which preempts the model building code used by the locality in which it will be sited, NAHB strongly disagrees. If the two are the same, then why are they different -- one built to a local code, the other to a federal code? Why are not both built to the local building code?

The two examples are not built to the same building code, because in 1974, the Congress of the United States declared through Public Law 93-383, the Housing and Community Development Act of 1974 (HCD Act), that manufactured housing having a permanent chassis could conform to the standards of the Manufactured Home Construction and Safety Standards Act of 1974, Title VI of the HCD Act, which preempts state and local building codes. The HCD Act did not include the requirement of a permanent chassis simply because it sounded good or looked good. Congress included permanent chassis because it was structurally good.

In conclusion, the National Association of Home Builders strongly believes that if a manufactured home does not have a permanent chassis, then it should be required to be built to the model building code in effect for the area in which it is to be sited. If it does have a permanent chassis, then it should continue to be allowed to be built to the HUD Code that preempts state and local codes.

In the House of Representatives, Representative Oakar (D-OH) is sponsoring an amendment to H.R. 5157, the Housing and Community Development Act of 1990, to delete the provision that would allow housing assembled to the HUD code to have a removable chassis. This amendment is strongly supported by the National Association of Home Builders, along with the AFL-CIO, the Consumer Federation of America, the American Association of Retired Persons, the Consumers Union, along with others.

The Senate passed version, S. 566, the National Affordable Housing Act, does not contain any language addressing manufactured housing and the issue of a removable chassis. NAHB strongly supports the Senate provision on this issue.

We appreciate the opportunity to share with you our comments on the issue of manufactured housing, and look forward to continuing to work with the Members and staff as the legislative process continues toward enactment of housing authorization legislation for the 1990s.

MOBILEHOME OWNERS LEAGUE OF THE SILVER STATE, INC.
'A Non Profit Organization'

July 24, 1990

Honorable Senator Richard Bryan
364 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Bryan:

On behalf of approximately thirty thousand, (30,000) people living in 448 rental parks in Nevada, we do not favor any change in HUD regulations unless the changes are for consumer protection.

Respectfully,

Vickie Demas, State President
MOBILEHOME OWNERS LEAGUE OF THE SILVER STATE

VD/jd

1990 JUL 24 PM 9 11

Federation of Mobile Home Owners of Florida, Inc.

P.O. BOX 5350 • LARGO, FLORIDA 34649-5350 • TELEPHONE 813/530-7539 • FAX 813/535-9427

President
Hector Balfour

Vice-President
Bill Wilkins

Directors-At-Large
~~[illegible]~~
~~[illegible]~~
Nils Houser
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Directors of Sections
Sloan Jacobson — I
Ray Ferar — II
Bill Pfaf — III
John Rose — IV

Executive Director
Fred Yonteck

Secretary/Treasurer
Sloan Jacobson

July 24, 1990

The Honorable Richard Bryan
708 East Hart Senate Office Building
Washington, DC 20510

Re: Meeting on manufactured home construction standards - September 26, 1990

Dear Senator Bryan:

The Federation of Mobile Home Owners of Florida, Inc. with approximately 250,000 members opposes any changes to the manufactured home construction standards unless the changes increase consumer protection. If the home is engineered for on-site removal of the chassis, steel beams and undercarriage and their removal is needed to facilitate placing the home on a permanent foundation or as a second story of a two-story construction, removal of these items should be permissible.

Generally speaking, we support the views presented by the National Foundation of Mobile Home Owners' Vice President for Public Relations, Len Wehrman. We also have great respect for the consumer protection philosophy of the National Conference of States on Building Codes and Standards (NCSBCS) of Herndon, Virginia.

In closing, and on behalf of Florida's 1.2 million mobile home owners, I want to thank you for your efforts to ensure that in the future mobile home owners have the maximum amount of housing for the dollars expended.

Very truly yours,

Fred Y

Fred Yonteck
Executive Director

FY/ct

cc: President Balfour
Vice President Wehrman
NCSBCS
President Vicki Demas

NATIONAL MANUFACTURED HOUSING FEDERATION, INC.
1701 K STREET, N.W., SUITE 400
WASHINGTON, D.C. 20006
(202) 822-6470

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Georgia
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CRAIG WHITE
Colorado
Treasurer
BILL MAUPIN
Texas
Assistant Secretary
KEN MYER
New Mexico
Assistant Treasurer
DOUG TRULUCK
South Carolina
Immediate Past Chairman
DAN GILLIGAN
President

July 25, 1990

The Honorable Richard Bryan
364 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Bryan:

Enclosed is my written statement on behalf of the National Manufactured Housing Federation which was prepared for the hearings you will chair on manufactured housing on July 26, 1990. We respectfully request that the statement be included in its entirety in the written record.

Thank you.

Sincerely,

Maureen Wagner

Maureen Wagner
Chairman

MW/ap

Enclosure

cc: U.S. Senate Subcommittee on Housing and Urban Affairs Members

NATIONAL MANUFACTURED HOUSING FEDERATION, INC.
1701 K STREET, N.W., SUITE 400
WASHINGTON, D.C. 20006
(202) 822-6470

NATIONAL OFFICERS
MAUREEN WAGNER
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First Vice Chairman
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KEN MYER
New Mexico
Assistant Treasurer
DOUG TRULUCK
South Carolina
Immediate Past Chairman
DAN GILLIGAN
President

STATEMENT OF

Maureen Wagner
Chairman
National Manufactured Housing Federation

Prepared for

United States Senate
Committee on Banking, Housing and Urban Affairs
Subcommittee on Housing and Urban Development

Hearings

on

Federal Manufactured Home Construction and Safety
Standards Law of 1974

Thursday, July 26, 1990

INTRODUCTION

Mr. Chairman and members of the Subcommittee, I am Maureen Wagner, President of Heritage Homes in Rockford, Minnesota. Heritage Homes, since 1975, has operated as a full service manufactured home retail sales center. I am submitting this written statement on behalf of the National Manufactured Housing Federation (NMHF). The National Manufactured Housing Federation was formed in 1978 and serves as a national forum for 45 state based manufactured housing associations. These state associations contain within their memberships most elements of the manufactured housing industry, to include retailers, manufactured home community owners, developers, manufacturers, service firms, suppliers and lenders. The largest constituency of the state associations is manufactured home retailers, community owners and developers. We estimate there are approximately 8,000 retailers and 20,000 community owners and developers active in the industry nationally. The National Manufactured Housing Federation most often focuses its efforts on issues as they affect retailers and developers.

On May 24, 1990 I had the opportunity to testify before the House Subcommittee on Housing and Community Development. A copy of that testimony is attached to my written statement submitted to you today (Attachment A). We have also attached a copy of the testimony of Mrs. Shirley Burley, a manufactured home owner from the state of Michigan, who we believe offered some revealing testimony concerning manufactured home owner matters in the state of Michigan (Attachment B). We believe that Mrs. Burley's testimony is particularly credible because she is an elected public official, a manufactured home owner, and a consumer representative on the Michigan Manufactured Home Commission. When reviewing her testimony, you will see that nearly 25,000 new manufactured homes were sold in the state of Michigan over the past 2 1/2 years. Of those 25,000 homes, only 58 standards related consumer complaints were filed. There were 582 warranty complaints filed but the overwhelming majority of those warranty complaints were cosmetic in nature and 90% of them were resolved to the home owners satisfaction in 90 days or less. Of the 58 standards related complaints only 6 were deemed to be serious. We believe that 6 serious standards related complaints out of 25,000 homes stands as an excellent report card for the industry's homes sold and installed in the state of Michigan.

In her testimony, Mrs. Burley also pointed out that most of the home owners appearing before the commission focused on community management and resident relations issues. Since NMHF is the national voice for manufactured home community owners and managers, we are aware that some community management practices need to be improved. As an industry we are committed to making those improvements. Just this year, NMHF has established the Manufactured Housing Educational Institute, which is now offering professional education and certification for manufactured home community managers. There are many excellent professional community managers already working in this industry and we have dedicated ourselves to increasing their numbers.

We believe that the homes being built by the manufactured home industry are of good quality and offer exceptional value to home buyers.

A report issued by the Foremost Insurance Co. reveals manufactured home owners' attitudes towards the homes they have purchased. The study shows that 87% of the 16,442 homeowners surveyed responded that they were satisfied with manufactured home living. At my retail sales center in Rockford, Minnesota, it is my goal to have every one of my home buyers satisfied.

H.R. 1180 PROVISIONS ON MANUFACTURED HOUSING

Mr. Chairman, the National Manufactured Housing Federation has reviewed very closely the changes adopted by the House Banking Committee concerning the Federal Manufactured Home Construction and Safety Standards Program, and we support those changes. Because it is our mission to represent the perspectives of manufactured home retailers and community owners, we would never support changes that we believed would in any way diminish the quality of manufactured homes. It would be contrary to our interests to do so. If we felt that the changes adopted by the House Banking Committee affected construction quality or safety, we would be vigorously resisting the changes.

We believe the proposed changes to the Federal Manufactured Home Construction and Safety Standards law are appropriate and necessary. Our analysis of the changes adopted by the House Banking Committee reveals that what is being proposed is re-regulation not de-regulation. The current law adopted by Congress in 1974 focuses too much attention on nonessential things. The law is better suited for the design and construction of vehicles than it is for housing. The current law focuses more on recordkeeping than consumer satisfaction. Attached to our testimony is a letter from NCSBCS to manufactured home retailers that describes this philosophy (Attachment C).

The amendments which you had planned to offer on the Senate Floor called for increased transportation related testing. We have asked retailers across the country if they are concerned about transportation damage. We have found no indication of transportation damage being a problem in the industry. Retailers want a quality house and satisfied customers. If transportation damage was a problem they would be asking us to initiate some action in this area.

INSTALLATION

Mr. Chairman, in your colloquy published in the Congressional Record you stated that "it is simply bad public policy to preempt well established regulatory programs at the state and local level without extensive hearings and full consideration." We could not agree more, especially in the area of installation. There are many states that have well established regulatory programs governing manufactured home installation practices and we believe installation should remain a function of state and local government. Standards for installation of homes sited in Maine will naturally be quite different than standards necessary in the state of Nevada. It is our understanding that the state of Nevada has an excellent installation regulatory program and we believe federal oversight of the Nevada program would be both unwanted and unwelcome. We are not satisfied with the status quo. Installation related issues have risen on the industry's agendas nationally in the last few years. We have vigorously promoted and sought more comprehensive installation programs at the state and local level. Nearly every state association in our federation is actively addressing installation issues in their states. As a former Governor, we are sure you are aware that state regulatory programs cannot be implemented overnight. Nonetheless, this is one of our highest priorities. In a similar sense, Mr. Chairman, we believe that existing state warranty laws should not be preempted. Some states currently have comprehensive manufactured home warranty requirements that have worked well for consumers and the industry in those states and we believe it would be a mistake for those programs to be preempted.

CHASSIS REMOVAL

Mr. Chairman, the manufactured home legislation adopted by the House Banking Committee contains a provision repealing the mandate that every manufactured home be built on a permanent chassis. It is our opinion that repealing the permanent chassis mandate is the single most important aspect of the legislation adopted by the House Banking Committee.

When I sell a home to a consumer who finances the home with a 30-year mortgage and places the home on private property with a permanent foundation, the consumer would prefer to have the chassis removed. The presence of a chassis requires a more costly foundation because of the two permanent steel I-beams running underneath the manufactured home. To allow for adequate space and head room when the chassis is present on the home, the basements must be deeper, concrete molding forms must be specially made and more blocks used to accommodate the steel I-beams. The end result is that the consumer pays more - both in factory costs and installation costs. Requiring a permanent chassis costs consumers between $1,500 - $4,500.

In the early 1980's, because of consumer demand and the inclusion of manufactured homes in FHA Title II, VA and conventional 30-year lending programs, I began offering to my customers homes specifically designed to be placed on a permanent foundation with the chassis removed. It enabled more families to be able to afford a house permanently sited on their own land - the American Dream. In 1986, when HUD determined that by removing the chassis, we were violating federal law, it was a great disappointment to me and my customers. Those homes that I sold and installed performed exceptionally well and those home buyers have been very satisfied.

The chassis on a manufactured home serves one purpose and that is to transport the home. Manufactured homes can be built on a "removable" chassis that ensures the structural integrity of the home during transportation. At the home site, the permanent foundation ensures the home's structural integrity. When a home is placed on a permanent foundation, never to be moved again, the chassis is unnecessary, yet consumers pay significantly more for their homes because of the federal requirement.

Opposition to the repeal of the permanent chassis mandate has claimed that the difference between a manufactured home and a modular home is the presence of a permanent chassis. This is simply not true. The difference between a manufactured home and a modular home is the code to which the home is built. Modular homes are built to state codes established and enforced by state governments, while manufactured homes are built to a code established and enforced by the federal government. The Federal Manufactured Home Construction and Safety Standards law specifically provides a clear exemption for modular manufacturers which leaves modular housing under state control. A manufacturer can elect to build modular homes or they can elect to build HUD code homes. Some elect to build both.

Mr. Chairman, for the past decade, America has been losing its affordable housing battle. The Congress has appropriated billions of dollars to encourage the availability of affordable housing. The manufactured housing industry, with no subsidies, is capable of making a significant contribution to the affordable housing needs of this country. If Congress truly wants to promote affordable housing, it must promote competition in the housing marketplace. Competition is one of the best consumer protection mechanisms. The permanent chassis issue is a competition issue. We hope that you will not permit misinformation and anti-competitive interests to succeed in placing another barrier to affordable housing. Consumer choice in this regard is clearly a consumer benefit.

(Attachment A)

NATIONAL MANUFACTURED HOUSING FEDERATION, INC.
1701 K STREET, N.W., SUITE 400
WASHINGTON, D.C. 20006
(202) 822-6470

STATEMENT OF

Maureen Wagner
Chairman
National Manufactured Housing Federation

Before

United States House of Representatives
Committee on Banking, Finance and Urban Affairs
Subcommittee on Housing and Community Development
The Honorable Henry Gonzalez, Chairman

Thursday, May 24, 1990
2128 Rayburn House Office Building

INTRODUCTION

Mr. Chairman and members of the Subcommittee, I am Maureen Wagner, President of Heritage Homes in Rockford, Minnesota. Heritage Homes, since 1975, has operated as a full service manufactured home retail sales center. I appear here today on behalf of the National Manufactured Housing Federation. Accompanying me is Dan Gilligan, President of the Federation. The National Manufactured Housing Federation was formed in 1977 and serves as a national forum for 45 state based manufactured housing associations. These state associations contain within their memberships most elements of the manufactured housing industry, to include retailers, manufactured home community owners, developers, manufacturers, service firms, suppliers and lenders. The largest constituency of the state associations is manufactured home retailers, community owners and developers. We estimate there are approximately 8,000 retailers and 20,000 community owners and developers active in the industry nationally. The National Manufactured Housing Federation often focuses its efforts on issues as they affect retailers and developers.

Thank you for inviting me testify today. Because our expertise is predominantly in the manufactured home marketplace, we will focus our comments in that area. Both ARR and MHI have significant expertise in the area of factory and manufacturer operations. With their testimony today, we believe you are receiving the best available information concerning manufacturer related issues.

Today, we want to share with you some of the marketplace concerns of retailers and developers. Later in our testimony we will specifically address the Hiler amendment to H.R. 1180 adopted by this committee on May 9, 1990.

AFFORDABILITY

At my sales center in Rockford, Minnesota it has been my goal to offer low to moderate income homebuyers homes that they want and that they can afford. It is becoming increasingly more difficult to fulfill this objective. Home manufacturers are building the homes that my customers want. But, barriers in financing, local government restrictions and ever increasing regulation chip away at the affordability of manufactured homes. In my opinion, manufactured housing is one of the only forms of good, safe, decent housing left for low and moderate income homebuyers who want to own their own piece of the "American Dream."

It should be a goal of both legislators and regulators to keep manufactured housing affordable.

BARRIERS TO MANUFACTURED HOUSING

Financing

Financing for manufactured home buyers is getting more difficult to secure. The problems of our nation's savings and loans, with which you are very familiar, is very much affecting manufactured home financing. S & L's across the country are pulling back from manufactured home financing. Many simply do not have the capital reserves to continue. The pull back of S & L's is having a parallel effect in both retail financing and land development. Many of my customers have used the FHA Title I manufactured home finance program or the FHA Title II 30-year mortgage program. The FHA Title I manufactured home program has been a good program for low and moderate income manufactured home buyers. We are now beginning to see that the loan limits need to be increased. Currently the FHA Title I program limits manufactured home loans to $40,500. We believe that if Congress raises the FHA limits in its conventional home programs, it should also increase the manufactured home limit.

In 1984, FHA began to permit manufactured homes sited on permanent foundations to qualify for the Title II 30-year mortgage program. Retailers and developers are becoming familiar with the FHA Title II program and are using it more extensively. One of our biggest problems when we enter the 30-year mortgage programs is the adequacy of appraisals. It has been our experience that appraisers unfairly penalize manufactured housing simply because it is factory built. In many cases we have found appraisers who refuse to use similar site-built homes for comparables. Since the FIRREA legislation passed last year includes some state based requirements for appraisers, many of our state associations are advocating manufactured home appraisal education as a part of new curriculums.

Local Government Restrictions

Another significant barrier to manufactured housing is obsolete local government ordinances. We were disappointed that this Subcommittee rejected the amendment to H.R. 1180 offered by Congressman Dreier requiring local governments to perform local affordable housing strategies as a part of the block grant process. It has been our experience that local governments often maintain obsolete and unjustified manufactured housing barriers while at the same time publicly deploring the lack of affordable housing. It is our opinion that no amount of federal funding will produce affordable housing if local governments do not cooperate. The "no growth" sentiments festering in many of American's cities and towns is a disturbing trend. The "no growth" sentiments are usually generated by persons who already own a home. They often exhibit indifference towards those who do not.

Sixteen state legislatures have taken favorable action concerning manufactured home zoning. Just a few months ago, the Georgia Supreme Court struck down a Coweta County ordinance because it contained broad exclusions against manufactured housing. These are long, difficult and expensive battles for the industry but we are making progress. Congress could accelerate the production of affordable housing if it gave incentives to local governments mitigate local barriers.

HILER AMENDMENT

The invitation to testify included a request for comments on the Hiler amendment to H.R. 1180 adopted by this Subcommittee two weeks ago. Retailers are especially concerned about consumer protection because we want satisfied homebuyers. If our customers are unhappy, we will not be in business very long. The Federation has performed an analysis of the Hiler amendment and supports modernizing the 1974 law. For manufactured housing to achieve its affordable housing potential, it must be regulated as housing, not vehicles. We have heard and read about how the Hiler amendment will diminish consumer protections, however, we have not located such evidence. If the Hiler Amendment was proposing to weaken the actual construction standards, we would be very concerned. The fact is that the standards will remain the same. The code in effect today will be in effect tomorrow.

The Hiler amendment focuses on enforcement procedures rather than standards questions. While it is not our area of expertise, the current enforcement system seems cumbersome and inefficient. For the industry to meet the changing demands of the marketplace, the industry needs an expedient and responsive regulatory framework.

The Federation did have one concern relating to the correction of nonconforming homes at the retail sales center. Congressman Hiler has agreed to offer an amendment in the full Banking Committee addressing this concern.

PERMANENT CHASSIS

An element of the Hiler amendment that we most support is the provision eliminating the mandate that every manufactured home be built on a permanent chassis. If there is one aspect of our homes that categorizes us as vehicles, it is this requirement.

I can assure you that when a homebuyer buys a home from me and wants to finance it for 30 years and have it installed on a permanent foundation, the homebuyer prefers to have the chassis removed. In many cases homebuyers prefer to have their manufactured homes placed over basements. Because of the presence of a chassis, we must dig the basements deeper and erect more costly and unsightly piers. I could save my homebuyers significant costs, both in factory costs and installation costs, if I could order a home designed to have the chassis removed. When I advise a homebuyer that the chassis cannot be removed because of Federal law, they find it illogical.

It has not been unusual in our industry to encounter restrictive covenants that prohibit any home built on a chassis. These restrictive covenants were written to exclude RV's and vehicles, not manufactured homes.

It is ironic that while FHA will accept a manufactured home in its 30-year insured mortgage program, it also requires that the chassis remain on the home. A chassis has only one use and that is to keep a home moveable. When FHA insures a loan for 30 years, we are certain that they do not want the collateral moveable.

We hope that this Subcommittee and the Congress will repeal this chassis requirement this year. What is the harm in giving the consumer a chance to decide whether they want a home on a chassis or not? Consumer choice, in this instance, is clearly a consumer benefit.

Again, Mr. Chairman and members of the Subcommittee, thank you for inviting me to testify today. I will be happy to answer any questions you may have.

(Attachment B)

Statement of

SHIRLEY BURLEY

Before the

United States House Of Representatives
Committee on Banking, Finance and Urban Affairs
Subcommittee on Housing and Community Development

The Honorable Henry Gonzalez, Chairman

May 24, 1990

Mr. Chairman and members of the Subcommittee, thank you for inviting me to testify on the proposed amendments to the Manufactured Home Construction and Safety Standards Act.

My name is Shirley Burley. I am the elected treasurer of Charter Township of Hampton in Bay County, Michigan. I have served in this capacity since 1981. I have represented elected officials on the Michigan Mobile Home Commission since 1981, and I am also a consumer member of the Commission. I am here to testify as a homeowner, about my own experiences, and my experience serving on the Michigan Mobile Home Commission.

I have lived in a mobile home since 1974. In 1974 I bought my manufactured home for $21,000. Today, my home has a market value of $40,000. My home is located in Saginaw Bay Estates, a land leased manufactured home community, in Essexville, Michigan. My monthly lot rent is $183.00.

The Michigan Mobile Home Commission has been in existence since 1976. The Commission serves as the industry's regulatory agency in Michigan. It regulates the construction and operation of rental communities, business practices of retailers, and the establishment of standards for installers and repairers of manufactured homes.

Michigan is one of the 10 leading states in manufactured home shipments and sales. It has the second highest instance of manufactured home ownership in this country. Over 73% of the manufactured homes in the state are owner occupied. Sales in Michigan, during the last several years, have averaged about 10,000 manufactured homes per year. Currently, there are approximately 250,000 households in our state that live in manufactured homes. During the last 8 years, manufactured homes have comprised between 25 and 35 percent of all single family home starts and 80 percent of all new housing for families with incomes of $25,000 or less.

In 1988, the Michigan Department of Commerce established a task force on manufactured housing. The task force was established to analyze the government barriers affecting the placement of manufactured housing, barriers affecting consumer awareness and the use of manufactured housing and barriers affecting productivity and the viability of the manufactured housing industry. As part of the Commission's concern for resident awareness and education, a consumer handbook has been developed and is distributed to approximately 15,000 residents and potential purchasers of manufactured homes per year. All mobile home parks and retail establishments are required to post a sign notifying residents and potential purchasers of manufactured homes of the Commission's existence and of the handbook's availability. I will leave a copy of both the task force report and the handbook with the Subcommittee.

The Commission meets five or six times per year. As part of its regular agenda, the Commission schedules a public forum for any person to present views, comments or complaints to the Commission. Most people who appear before the Commission with major problems are directing their complaints with the park, but are apparently very satisfied with the quality of their homes. Friends and neighbors of mine that have purchased manufactured homes in the past several years have also been satisfied with the quality and functional performance of their homes.

In the last two and a half years, approximately 25,000 new homes were sold in Michigan and 12,000 new rental lots were developed. In the time period that 25,000 homes were sold, 582 warranty complaints were filed. Of the 582 warranty complaints received by the Commission, the overwhelming majority were cosmetic in nature, and over 90% of the complaints were resolved to the homeowners satisfaction in 90 days or less. Also, 58 State Administrative Agency complaints were filed. Of these complaints, 6 were serious problems. I feel that 6 major complaints out of 25,000 homes sold is a better average than you may get with a stick built home.

I believe that the State of Michigan, the retailers, the manufacturers and consumers have reached a degree of mutual respect and agreement that mutual cooperation is necessary if we are to move forward and retain a quality product and provide homes and communities that are a pride to their owners.

(Attachment C)

NCS BCS National Conference of States on Building Codes and Standards, Inc.
481 Carlisle Drive, Herndon, Virginia 22070 (703) 437-0100

MEMORANDUM

Date: March 2, 1988

To: Dealers of Manufactured/Mobile Homes in Non-SAA States

From: Ashok Goswami

Subject: Forwarding of Consumer Complaints by Dealers

As a dealer of manufactured housing, the Federal Manufactured Home Procedural and Enforcement Regulations outline specific responsibilities you must satisfy.

One of these responsibilities (3282.256) requires that consumer complaints indicating the possible existence of an imminent safety hazard, serious defect, defect or noncompliance in a manufactured home be forwarded to the manufacturer of that home. This includes complaints that were received and corrected by your dealership. Simply correcting defects or resolving consumer complaints does not complete the procedure. Dealers must notify their manufacturer about the complaint or defect.

Another responsibility (3282.255) requires that the dealer complete the information card provided by the manufacturer and send the card to the manufacturer.

The Department of Housing and Urban Development (HUD) has directed the National Conference of States on Building Codes and Standards (NCSBCS) to collect data and conduct field investigations, including limited dealer lot monitoring. HUD will use this information in discharging it's responsibilities under Subpart 'I' consumer complaint handling and remedial action requirements of the regulations.

NCSBCS is aware that the National Manufactured Housing Federation recently advised industry dealers about the aforementioned regulations. We hope that dealers will review their service procedures to insure that manufacturers are appropriately notified about the possible existence of an imminent safety hazard, serious defect, defect or noncompliance.

Additionally, if manufactured homeowners in non-SAA states do not feel they are receiving adequate action as a result of their complaint, the Department of Housing and Urban Development may be contacted directly at 1-800-346-7588. Your cooperation in the dissemination of this information would be appreciated.

Shyam Chowdhary for
Ashok K. Goswami, P.E.
Director, Manufactured Homes
Codes and Standards

AG:rs

PLUMBERS LOCAL 75

9601 West Silver Spring Drive
Milwaukee, Wisconsin 53225
(414) 462-7810

WRITTEN TESTIMONY OF
RICHARD LANSING, BUSINESS MANAGER
PLUMBERS LOCAL 75
MILWAUKEE, WISCONSIN

BEFORE THE SENATE COMMITTEE ON
BANKING, HOUSING AND URBAN AFFAIRS
August 9, 1990

Business Manager
Richard Lansing

On behalf of Plumbers Local 75, I wish to thank the Committee for the opportunity to submit testimony on the Hiler amendments to the Housing and Community Development Act, as passed by the House of Representatives.

We at Plumbers Local 75 believe that the amendments will seriously undermine the rights of consumers under the already-weak Manufactured Home Construction Act, and will also result in serious economic dislocation, and a loss of quality construction jobs, in the local homebuilding industry.

I. The Consumer Issues

I have read the testimony presented to this committee by the American Association of Retired Persons, Consumers Union, Arkansas Manufactured Home Commission, and the National Foundation of Manufactured Home Owners, and I fully agree with their depiction of the consumer problems with mobile homes. Our experience at Plumbers Local 75 has been similar. Our membership includes plumbing inspectors who have reported serious plumbing code violations -- even under the weak federal code -- involving mobile homes. These are the types of problems that cause the leaky pipes described in other testimony you have before you. We have followed these reports through the system and have been advised that no action can be taken to protect consumers from these violations under the weak federal law.

II. The "permanent chassis" issue

A. Some definitions -- who regulates which homes under current law?

The homebuilding industry can be divided into **site-built homes** (built primarily on the construction site, with local homebuilding contractors) and **prefabricated** or **modular homes** (built primarily in factories). Among prefabricated homes, some are installed on permanent foundations, and some, alternatively, can be moved from place to place (**"mobile homes"** or **"manufactured homes"** or **"HUD-sealed homes"**).

In 1974, Congress enacted the National Manufactured Housing Construction and Safety Standards Act of 1974. The very limited purpose of this law was to create a federally preemptive housing law for mobile homes, so that owners of those homes could move them from one state to another without having to rebuild them to comply with local codes. The federal law's coverage was strictly limited to "manufactured housing", defined as follows:

> ... a structure, transportable in one or more sections which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained therein...
> 42 U.S.C. §5402(6)

Since it is the "permanent chassis" that makes a home truly mobile, both HUD and District of Columbia Court of Appeals have concluded that the permanent chassis is the "essential distinction" between federally-regulated manufactured housing and other prefabricated housing. Association for Regulatory Reform vs Pierce, 849 F.2d 648 (D.C. Cir. 1988). HUD regulations define the permanent chassis as

> the entire transportation system comprising the following subsystems: drawbar and coupling mechanism, frame, running gear assembly, and lights.
> 24 C.F.R. §3280.902(a)

B. The Hiler amendments would give the manufacturer an option to exempt all prefabricated housing from state and local codes.

A large proportion of prefabricated housing is installed on permanent foundations, and is not intended to be mobile. This housing competes directly with local site-built housing, and, unless it is built with a permanent chassis, must currently comply with the same state and local codes as site-built housing. **The only structural distinction between state-regulated homes and federally regulated mobile homes is the permanent chassis.** If a home is built with a permanent chassis, the manufacturer knows that it is exempt from state and local codes. If the home has no permanent chassis, it must comply with the same state codes as other homes.

The Hiler amendments would delete the requirement that manufactured homes have the permanent chassis that makes them truly "mobile", and would effectively eliminate the distinction between mobile homes and other modular homes. The impact of this language change would be to extend federally pre-emptive regulation to all prefabricated homes.

C. Federal pre-emption will result in unfair competition against local builders, leading to economic dislocation

in the local homebuilding industry.

The federal code is much less restrictive than most state codes. As a result, local site-built homebuilders will be forced to compete against modular homebuilders who have a much less restrictive building code.

Because modular homebuilders must comply only with the federal code, they will have a substantial competitive advantage over the local homebuilder. This unfair competition will lead to a substantially increased market share for modular homebuilders, will result in economic dislocation of the local homebuilding industry and the loss of quality, family-supporting jobs for the builders' employees. In this local union alone, hundreds of residential plumbing jobs could be lost.

D. Doesn't §604(h) of the current law ensure that modular homes will not be pre-empted by the federal law?

No. The Association for Regulatory Reform, on page 7 of its testimony, has seriously misquoted this statutory provision. Section 604(h) provides:

> The Secretary shall exclude from the coverage of this chapter any structure which the manufacturer certifies, in a form prescribed by the Secretary, to be:
>
> (1) designed only for erection or installation on a site-built permanent foundation;
>
> (2) not designed to be moved once so erected or installed;
>
> (3) designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a State or local modular building code recognized as generally equivalent to building codes for site-built housing, or with minimum property standards adopted by the Secretary pursuant to Title II of the National Housing Act [12 U.S.C. §1707, et seq.]; and
>
> (4) to the manufacturer's knowledge is not intended to be used other than on a site-built permanent foundation.

Section 604(h) does not, as contended by ARR, "expressly exclude modular housing". Instead, it gives the modular housing manufacturer the option of choosing to build to state or federal codes. Unless the manufacturer files the §604(h) certification, the home is covered by federal law. Unless the manufacturer chooses to build his home to comply with one of the more restrictive codes listed in §604(h)(3), the home is covered by federal law. We believe that most manufacturers will choose the less restrictive federal code, along with the competitive advantage it offers. Under current law, the option of building to the federal code is available only to manufacturers of mobile homes with permanent chassis. If the Hiler amendments are adopted, the option of state-code exemption will be available for all prefabricated housing.

E. Aren't there other structural distinctions between manufactured homes and other modular housing?

No, there really is no other way to distinguish a home that must comply with state codes from a home that must meet only the federal codes. Once the "permanent chassis" distinction is removed from the law, manufacturers will have the option of federal preemption for all modular homes.

The industry contends that manufactured homes can be distinguished from other modular homes because they are built to federal code. Of course they can, after they are built. The problem is that manufacturers of prefabricated housing will have the right to choose whether to build to state or federal code. Site-builders do not have the option of choosing the less restrictive federal code.

F. Isn't the permanent chassis an unnecessary and costly anachronism?

The industry argues that the permanent chassis is not used by most mobile home purchasers, since most mobile homes are erected on permanent foundations. Thus, they claim, the permanent chassis merely adds $800 to $3000 in unnecessary costs to the mobile home.

The cost of the permanent chassis is necessary only for truly "mobile" homes. It is not necessary for non-mobile homes. But the federal law was only intended to apply to "mobile" homes. Its purpose was to make homes movable, not to make permanently-sited homes affordable.

G. Didn't HUD, for many years, approved the manufacture of HUD-sealed homes without permanent chassis?

No. The statute requires that manufactured homes have permanent chassis, and HUD regulations have always required a permanent chassis. In 1986 HUD issued a directive to its inspection agencies, reminding them that permanent chassis were required on all manufactured homes. The industry challenged HUD's directive in two lawsuits, claiming that HUD had previously approved homes with "removable" chassis, and the 1986 directive constituted rulemaking.

The industry lost both cases. Association for Regulatory Reform v Pierce, 849 F.2d 849 (D.C.Cir. 1988); Indiana Manufactured Housing Association v Pierce, Case No. 586-698 (N.D.Ind. November, 1989). During the litigation, however, even the industry, admitted that HUD's rules have always required that manufactured homes have a permanent chassis. The Court of Appeals described the industry's position:

> ... the warring litigants were in happy accord (but curiously so for litigants) that the governing statute required a structure's chassis to be "permanent". More specifically, the Association did not quarrel with HUD's long-standing regulations implementing the statute and giving implementation to the pivotal term, "permanent chassis."

The federal district court found specifically that HUD had demonstrated an absence of any prior approval of non-permanent chassis. Association for Regulatory Reform v Pierce, 670 F.Supp. 1041, 1051, fn.17 (D.D.C. 1987).

H. Do the Hiler Amendments help meet the affordable housing need in this country?

The federal mobile home law was intended to create movable housing; it was not intended to solve the affordable-housing problem. It appears that the industry is now contending that there is very little need for movable housing, because most mobile-home-buyers place their homes on permanent foundations. It may be that the market for movable homes has shrunk, and that the mobile home law is not as relevant now as it was in 1974. Such a change in consumer tastes does not justify an attempt to expand the law to cover some, but not all, stationary homes.

If Congress tries to use the Hiler amendments to create affordable housing, the result will be unfair competition and the destruction of the local homebuilding industry. Modular housing is not necessarily "affordable". In the Milwaukee area, modular homebuilders are constructing modular homes selling for hundreds of thousands of dollars. One modular home in Waukesha County, Wisconsin is approximately 5000 square feet in size, selling for approximately $400,000, and placed in the center of an exclusive subdivision of site-built homes.

If Congress wants to make housing more affordable by creating a less restrictive federally pre-emptive code, it should pass a code that applies to all housing, not just prefabricated housing. Everyone in the housing industry should be required to play by the same rules.

The 1200 members of Plumbers Local 75 urge that Senate conference committee members firmly refuse to include the Hiler amendments in the conference Housing and Community Development Act.

LAW OFFICES

O'DONOGHUE & O'DONOGHUE

4748 WISCONSIN AVENUE, N.W.
WASHINGTON, D.C. 20016
(202) 362-0041
TELECOPIER (202) 362-2640

9 NORTH ADAMS STREET
ROCKVILLE, MD. 20850
(301) 251-0626

1944 PUBLIC LEDGER BUILDING
INDEPENDENCE SQUARE
PHILADELPHIA, PA. 19106
(215) 574-2860

MARTIN F. O'DONOGHUE
(1902-1973)
PATRICK C. O'DONOGHUE
(1930-1978)
DONALD J. CAPUANO
JAMES R. O'CONNELL (DC & MD)
ROBERT MATISOFF
JOYCE A. MADER (DC & PA)
SALLY M. TEDROW
BRIAN A. POWERS
JOHN L. BOHMAN
JOSEPH P. BOYLE (DC, MD & PA)
FRANCIS J. MARTORANA

ROBERT J. HENRY
NICHOLAS R. FEMIA (DC & PA)
CHARLES W. GILLIGAN (DC & MD)
ELLEN O. BOARDMAN
LOUIS P. MALONE III
MARY C. FELLER (PA. ONLY)
JOHN LEARY (PA. ONLY)
SHARON McNEILLY (MD ONLY)
LISA R. LINDON
GERARD M. WAITES (PA. ONLY)
JOHN R. HARNEY

August 14, 1990

HAND DELIVERED

Ed Malan
Publications Editor
Committee on Banking, Housing
and Urban Affairs
U.S. Senate
534 Dirksen Office Building
1st and C Streets, N.E.
Washington, D. C. 20510

Dear Mr. Malan:

As we discussed last week, enclosed for publication are the comments of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO, CLC in opposition to the Hiler Amendment (H.R. 1180).

I appreciate your assistance in this matter. Please call me if you have any questions.

Very truly yours,

Ellen O Boardman
Ellen O. Boardman

EOB:lf

cc: Michael A. Collins (w/encl.)

Office of the General President—Marvin J. Boede

General Office File Reference

AFL-CIO

United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada

Composed of journeymen and
apprentices who have jurisdiction
over every branch of the plumbing
and pipe fitting industry

United Association Building, 901 Massachusetts Avenue, N.W., Washington, D.C. 20001 Phone (202) 628-5823

OPPOSITION TO H.R. 1180 (HILER AMENDMENT)

The United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO, CLC ("United Association") is an international labor organization representing approximately 330,000 plumbers and pipefitters in the construction industry. The purpose of this statement is to express our strong opposition to the Hiler Amendment (H.R. 1180), which was the subject of recent Senate subcommittee hearings. The Hiler Amendment will not only expand federal regulation to all prefabricated housing, a significant change from the current state of the law, it will also dilute the already weak consumer protections now governing mobile home manufacturers. In short, H.R. 1180's ill effects will strike both the homebuilding industry and the consumer: for the industry, the likely result is the very real possibility of severe economic dislocation; for the consumer, the sure consequence is inferior, low-grade housing with minimal consumer protection. Our concerns are spelled out in more detail below.

The most substantial change wrought by the Hiler Amendment is its expansion beyond manufactured or mobile homes into the area of modular housing, which has traditionally been regulated on the state and local level. This major modification is the result of H.R. 1180's redefinition of "manufactured housing" to delete the longstanding requirement that it have a "permanent chassis." Contrary to its proponents' assertions, this new definition will fundamentally restructure the regulation of modular housing by preempting the rigorous state, city and local building codes which currently control such housing.

Traditionally, prefabricated housing has fallen into two distinct groups: manufactured housing, commonly known as mobile homes; and modular housing. Mobile homes are factory-built and movable by definition. They are regulated by the Department of Housing and Urban Development pursuant to the current federal manufactured housing law. Because of the broad preemption provisions of the law, makers of mobile homes are exempt from compliance with the more exacting state and local building codes. Since this law was intended to apply only to homes which are truly "mobile," the law has required that manufactured homes contain a "permanent chassis." Modular homes, on the other hand, are permanently installed on a building site and must meet the same state and local building codes that apply to site-built homes.

Deletion of the term "permanent chassis" will render meaningless the distinction between mobile homes and modular homes. Even HUD, the agency charged with administering, interpreting and enforcing the current federal mobile home law, would agree. In the mid-1980s, HUD instructed manufactured housing design inspectors throughout the country not to approve mobile home designs allowing for the removal of the chassis. In its directive, HUD specifically stated that stated that the "concept that a manufactured home is a structure built on a permanent chassis is central to the definition of a manufactured home" and "is an essential distinction between modular housing and manufactured housing."

This directive was subsequently the focus of a lawsuit brought by a manufactured housing association. The association challenged, among other things, HUD's position that mobile homes designed without a "permanent chassis" could not be approved -- in other words, could not be HUD-sealed homes. Rejecting the association's position, the federal district and appellate courts both agreed that HUD's directive was no more than a restatement of the existing law; that is, that mobile homes, by definition, require a "permanent chassis".[1] Clearly then, at least insofar as the agency which regulates mobile homes is concerned, a mobile home without a "permanent chassis" is a modular home.

Given HUD's own interpretation of what makes a mobile home, it is sheer sophistry to contend, as the proponents of H.R. 1180 do, that deletion of the term "permanent chassis" from the existing law will not result in federal regulation of modular housing. To the contrary, it can have but no other consequence. Defenders of the Hiler Amendment shrug off the "permanent chassis" distinction, arguing instead that the difference between manufactured and modular homes is that the former is federally regulated and HUD-sealed while the latter is locally regulated. Such circular reasoning, however, ignores the real issue: that is, without the inclusion of "permanent chassis" in the definition of manufactured housing, there will no longer be any distinction in the manner in which manufactured and modular homes are regulated or sealed. Under the Hiler definition, both will be federally regulated.

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[1] The appellate court's decision is reported at Association for Regulatory Reform v. Pierce, et al., 849 F.2d 649 (D.C. Cir. 1988).

If modular housing is defined as manufactured housing, modular home builders will be able to use preemption to opt out of coverage under state and local building codes, which have long governed the construction of modular housing. It will come as no surprise that local homebuilders, who will be forced to compete against the less stringently regulated modular homebuilders, will face serious competitive disadvantages. This unfair competition will invariably lead to a substantially increased market share for modular homebuilders and a resulting economic dislocation of the local homebuilding industry and its employees. Such unnecessary and unwarranted economic disruption is surely poor public policy. Every effort must be made to ensure that the current manufacturered housing laws are not broadened to encompass modular housing.

The other significant change wrought by the Hiler Amendment is the undermining of the already weak manufactured housing consumer protections. Currently, the law defines "manufactured home safety" so as to protect homeowners from accidents resulting from the design or construction of the mobile home. H.R. 1180, on the other hand, would consider a manufacturered home to be safe as long as it did not cause an "unreasonable risk of death or injury." In other words, manufacturers would not have to answer for non-life threatening accidents that nonetheless cause serious and costly property damage. Similarly, the Hiler Amendment would require manufacturers to correct only an "imminent safety hazard," which is defined as an "imminent and unreasonable risk of death or severe personal injury" proximately caused by a design or assembly error or the manufacturer's failure to comply with federal regulations. In other words, short of death or maiming, manufacturered homeowners will have no financial recourse to negligent builders and will have to correct even serious defects at their own expense. These are just some examples of H.R. 1180's overall design to lessen manufacturer responsibility for the quality of workmanship. Given that the federal manufactured housing law provides the only regulation of mobile homes, and that homeowners have no recourse to state and local building codes, Congress' focus should be on improving rather than diluting the existing consumer protections for manufacturered homeowners.

When it enters conference with the House of Representatives, the Senate should be mindful of the serious problems created by the Hiler Amendment. H.R. 1180 is short-sighted and ill-advised legislation that will only add to the problem of, rather than be a part of the solution to, the nationwide shortage of safe and affordable housing.